

STAYED,(b)(1)(A),MAG,APPEAL,LC2,LODGE\_DOC,MLC1,OBJMAG

**US District Court Electronic Case Filing System  
District of Utah (Central)  
CIVIL DOCKET FOR CASE #: 2:15-cv-00828-DN-EJF**

USA v. RaPower-3 et al  
Assigned to: Judge David Nuffer  
Referred to: Magistrate Judge Evelyn J. Furse  
Cause: 26:7402(a) IRS: Jurisdiction of District Courts

Date Filed: 11/23/2015  
Jury Demand: Defendant  
Nature of Suit: 870 Taxes  
Jurisdiction: U.S. Government Plaintiff

**Plaintiff**

**USA**

represented by **Erin Healy Gallagher**  
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V.

**Defendant**

**RaPower-3**

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**Defendant**

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**Daniel B. Garriott**  
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**Joshua D. Egan**  
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**Defendant**

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**Steven R. Paul**  
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**Defendant**

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**Defendant**

**Neldon Johnson**

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**Defendant**

**Roger Freeborn**

*TERMINATED: 04/03/2018*

represented by **Denver C. Snuffer, Jr.**

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V.

**Respondent**

**Heideman & Associates**

*re 290 Motion*

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*LEAD ATTORNEY*

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**Movant**

**Todd Anderson**

*TERMINATED: 02/27/2018*

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**Movant**

**Cody Buck**

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**Movant**

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**Movant**

**David Mantyla**  
 TERMINATED: 02/27/2018

represented by **Eric G. Benson**  
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**Movant**

**Kenneth Birrell**  
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Date Filed	#	Page	Docket Text
11/23/2015	<u>1</u>		Case has been indexed and assigned to Judge David Nuffer. Plaintiff USA is directed to E-File the <u>complaint and cover sheet</u> (found under Complaints and Other Initiating Documents) by the end of the business day. Filing Fee waived (USA)  <b>NOTE: The court will not have jurisdiction until the opening document is electronically filed and the filing fee paid in the CM/ECF system.</b> Civil Summons may be issued electronically. Prepare the summons using the courts <u>PDF version</u> and email it to <a href="mailto:utdecf_clerk@utd.uscourts.gov">utdecf_clerk@utd.uscourts.gov</a> for issuance. (eat) (Entered: 11/23/2015)
11/23/2015	<u>2</u>		COMPLAINT <i>for Permanent Injunction &amp; Other Equitable Relief</i> against All Defendants No Filing Fee, filed by USA. (Attachments: # <u>1</u> Civil Cover Sheet) Assigned to Judge David Nuffer (Mangum, John) Modified to correct docket text on 11/23/2015 (eat). (Entered: 11/23/2015)
11/23/2015	<u>3</u>		MOTION for Admission Pro Hac Vice of Erin Healy Gallagher (no registration fee required) filed by Plaintiff USA. (Attachments: # <u>1</u> Exhibit A & B – PHV Applic & ECF Registration, # <u>2</u> Text of Proposed Order na)(Mangum, John) (Entered: 11/23/2015)
11/23/2015	<u>4</u>		MOTION for Admission Pro Hac Vice of Erin R. Hines (no registration fee required) filed by Plaintiff USA. (Attachments: # <u>1</u> Exhibit A – PHV



		Application, # <u>2</u> Text of Proposed Order na)(Mangum, John) (Entered: 11/23/2015)
11/23/2015	<u>5</u>	MOTION for Admission Pro Hac Vice of Christopher R. Moran (no registration fee required) filed by Plaintiff USA. (Attachments: # <u>1</u> Exhibit A & B – PHV Application & ECF Registration, # <u>2</u> Text of Proposed Order na)(Mangum, John) (Entered: 11/23/2015)
11/23/2015	<u>6</u>	<b>**RESTRICTED DOCUMENT**</b> Summons Issued Electronically as to International Automated Systems. Instructions to Counsel: 1. Click on the document number. 2. If you are prompted for an ECF login, enter your 'Attorney' login to CM/ECF. 3. Print the issued summons for service. (mms) (Entered: 11/23/2015)
11/23/2015	<u>7</u>	<b>**RESTRICTED DOCUMENT**</b> Summons Issued Electronically as to RaPower-3. Instructions to Counsel: 1. Click on the document number. 2. If you are prompted for an ECF login, enter your 'Attorney' login to CM/ECF. 3. Print the issued summons for service. (mms) (Entered: 11/23/2015)
11/23/2015	<u>8</u>	<b>**RESTRICTED DOCUMENT**</b> Summons Issued Electronically as to Roger Freeborn. Instructions to Counsel: 1. Click on the document number. 2. If you are prompted for an ECF login, enter your 'Attorney' login to CM/ECF. 3. Print the issued summons for service. (mms) (Entered: 11/23/2015)
11/23/2015	<u>9</u>	<b>**RESTRICTED DOCUMENT**</b> Summons Issued Electronically as to Neldon Johnson. Instructions to Counsel: 1. Click on the document number. 2. If you are prompted for an ECF login, enter your 'Attorney' login to CM/ECF. 3. Print the issued summons for service. (mms) (Entered: 11/23/2015)
11/23/2015	<u>10</u>	<b>**RESTRICTED DOCUMENT**</b> Summons Issued Electronically as to R. Gregory Shepard. Instructions to Counsel: 1. Click on the document number. 2. If you are prompted for an ECF login, enter your 'Attorney' login to CM/ECF. 3. Print the issued summons for service. (mms) (Entered: 11/23/2015)
11/23/2015	11	<b>DOCKET TEXT ORDER</b> granting <u>3</u> Motion for Admission Pro Hac Vice of <u>Erin Healy Gallagher</u> ; granting <u>4</u> Motion for Admission Pro Hac Vice of <u>Erin R. Hines</u> ; granting <u>5</u> Motion for Admission Pro Hac Vice of <u>Christopher R. Moran</u> ; all for USA. <i>Attorneys admitted Pro Hac Vice may download a copy of the District of Utahs local rules from the courts web site at <a href="http://www.utd.uscourts.gov">http://www.utd.uscourts.gov</a></i>

		<b>So ordered by Judge David Nuffer on 11/23/15 (docket text only – no attached document) (alt)</b> (Entered: 11/23/2015)
11/23/2015	<u>12</u>	<b>**RESTRICTED DOCUMENT**</b> Summons Issued Electronically as to LTB1. Instructions to Counsel: 1. Click on the document number. 2. If you are prompted for an ECF login, enter your 'Attorney' login to CM/ECF. 3. Print the issued summons for service. (eat) (Entered: 11/23/2015)
11/24/2015	13	<b>DOCKET TEXT ORDER REFERRING CASE to Magistrate Judge Brooke C. Wells under 28:636 (b)(1)(A), Magistrate to hear and determine all nondispositive pretrial matters. So ordered by Judge David Nuffer on 11/24/15 (docket text only – no attached document) (alt)</b> (Entered: 11/24/2015)
12/31/2015	<u>14</u>	<b>**RESTRICTED DOCUMENT**</b> SUMMONS Returned Executed by USA as to R. Gregory Shepard served on 12/3/2015, answer due 12/24/2015. (Attachments: # <u>1</u> Summons)(Hines, Erin) (Entered: 12/31/2015)
12/31/2015	<u>15</u>	<b>**RESTRICTED DOCUMENT**</b> SUMMONS Returned Executed by USA as to Roger Freeborn served on 12/4/2015, answer due 12/28/2015. (Attachments: # <u>1</u> Summons)(Hines, Erin) (Entered: 12/31/2015)
12/31/2015	<u>16</u>	<b>**RESTRICTED DOCUMENT**</b> SUMMONS Returned Executed by USA as to Neldon Johnson served on 12/9/2015, answer due 12/30/2015. (Attachments: # <u>1</u> Summons)(Hines, Erin) (Entered: 12/31/2015)
12/31/2015	<u>17</u>	<b>**RESTRICTED DOCUMENT**</b> SUMMONS Returned Executed by USA as to RaPower–3 served on 12/9/2015, answer due 12/30/2015. (Attachments: # <u>1</u> Summons)(Hines, Erin) (Entered: 12/31/2015)
12/31/2015	<u>18</u>	<b>**RESTRICTED DOCUMENT**</b> SUMMONS Returned Executed by USA as to International Automated Systems served on 12/4/2015, answer due 12/28/2015. (Attachments: # <u>1</u> Summons)(Hines, Erin) (Entered: 12/31/2015)
12/31/2015	<u>19</u>	<b>**RESTRICTED DOCUMENT**</b> SUMMONS Returned Executed by USA as to LTB1 served on 12/5/2015, answer due 12/28/2015. (Attachments: # <u>1</u> Summons)(Hines, Erin) (Entered: 12/31/2015)
01/18/2016	<u>20</u>	NOTICE of Appearance by Donald S. Reay on behalf of Roger Freeborn (Reay, Donald) (Entered: 01/18/2016)
01/18/2016	<u>21</u>	NOTICE of Appearance by Donald S. Reay on behalf of R. Gregory Shepard (Reay, Donald) (Entered: 01/18/2016)
01/21/2016	<u>22</u>	ANSWER to Complaint filed by International Automated Systems, Neldon Johnson, LTB1, RaPower–3. Attorney Samuel Alba added to party International Automated Systems(pty:dft), Attorney Samuel Alba added to party Neldon Johnson(pty:dft), Attorney Samuel Alba added to party LTB1(pty:dft), Attorney Samuel Alba added to party RaPower–3(pty:dft)(Alba, Samuel) (Entered: 01/21/2016)
01/25/2016	<u>23</u>	RE-FILED AS <u>26</u> ANSWER – <del>ANSWER to Complaint filed by Roger Freeborn.(Reay, Donald)</del> Modified on 1/29/2016: added re-filing info (alt) (Entered: 01/25/2016)

01/25/2016	<u>24</u>	DEMAND for Trial by Jury by Defendants International Automated Systems, Neldon Johnson, LTB1, RaPower-3. (Alba, Samuel) (Entered: 01/25/2016)
01/26/2016	25	NOTICE FROM THE COURT re: Initial Scheduling The court's IPT Clerk will now set the case for the Initial Pretrial Scheduling Conference (asb) (Entered: 01/26/2016)
01/26/2016	<u>26</u>	ANSWER to Complaint filed by Roger Freeborn, R. Gregory Shepard.(Reay, Donald) (Entered: 01/26/2016)
02/04/2016	27	<b><u>NOTICE OF INITIAL PRETRIAL CONFERENCE:</u></b> (Notice generated by IPT Clerk) The <b>Attorneys Planning Meeting Report</b> and <b>Proposed Scheduling Order</b> forms, available on the court web site at <a href="http://www.utd.uscourts.gov/documents/formpage.html">http://www.utd.uscourts.gov/documents/formpage.html</a> , should be prepared 21 days before the Initial Pretrial Conference hearing date.  <b><u>NOTICE TO COUNSEL,</u></b> The Court <i>may</i> enter a scheduling order and vacate the hearing <i>if</i> counsel (a) file a stipulated <b>Attorneys Planning Meeting Report</b> ; and (b) e-mail a <b>Proposed Scheduling Order</b> to <a href="mailto:ipt@utd.uscourts.gov">ipt@utd.uscourts.gov</a> 21 days before the scheduled hearing. See instructions at <a href="http://www.utd.uscourts.gov/documents/ipt.html">http://www.utd.uscourts.gov/documents/ipt.html</a>  If counsel or the parties would like to participate by phone they must contact the IPT Clerk at least two days in advance at <a href="mailto:ipt@utd.uscourts.gov">ipt@utd.uscourts.gov</a> to make arrangements.  <b>Initial Pretrial Conference set for 3/9/2016 at 10:00 AM in Rm 7.400 before Magistrate Judge Evelyn J. Furse.</b> (jds) (Entered: 02/04/2016)
02/09/2016	<u>28</u>	MOTION to Continue the March 9, 2016 Hearing and Memorandum in Support filed by Defendants International Automated Systems, Neldon Johnson, LTB1, RaPower-3. (Attachments: # <u>1</u> Text of Proposed Order Order Granting Motion to Continue the March 9, 2016 Hearing) Motions referred to Brooke C. Wells.(Alba, Samuel) (Entered: 02/09/2016)
02/09/2016	<u>29</u>	NOTICE of Appearance by James S. Judd on behalf of International Automated Systems, Neldon Johnson, LTB1, RaPower-3 (Judd, James) (Entered: 02/09/2016)
02/11/2016	<u>30</u>	<b>ORDER granting <u>28</u> Motion to Continue the March 9, 2016. Hearing is reset to April 13, 2016 at 10:00 am. Signed by Magistrate Judge Evelyn J. Furse on 2/10/2016. (jds)</b> Modified time on 2/11/2016 (jds). (Entered: 02/11/2016)
02/11/2016		<b><u>Reset Hearings: Initial Pretrial Conference reset for 4/13/2016 at 10:00 AM in Rm 8.400 before Magistrate Judge Evelyn J. Furse.</u></b> (jds) (Entered: 02/11/2016)
02/22/2016	<u>31</u>	MOTION to Strike and Memorandum in Support <i>re Jury Demand</i> filed by Plaintiff USA. Motions referred to Brooke C. Wells.(Moran, Christopher) Modified on 5/2/2016: removed unnecessary text (alt) (Entered: 02/22/2016)
03/04/2016	<u>32</u>	MEMORANDUM in Opposition re <u>31</u> MOTION to Strike and Memorandum in Support of <i>Motion to Strike Jury Demand</i> filed by Defendants International

		Automated Systems, Neldon Johnson, LTB1, RaPower-3. (Alba, Samuel) (Entered: 03/04/2016)
03/14/2016		<b>Reset Hearings: Initial Pretrial Conference reset for 4/20/2016 at 10:00 AM in Rm 8.400 before Magistrate Judge Evelyn J. Furse.</b> (jds) (Entered: 03/14/2016)
03/18/2016	<u>33</u>	REPLY to Response to Motion re <u>31</u> MOTION to Strike and Memorandum in Support of <i>Motion to Strike Jury Demand</i> filed by Plaintiff USA. (Attachments: # <u>1</u> Supplement Unpublished Opinion, USA v. Hansen, 05cv0921-L (SD Cal.))(Moran, Christopher) (Entered: 03/18/2016)
03/21/2016	34	<b>NOTICE OF HEARING ON MOTION</b> re: <u>31</u> MOTION to Strike and Memorandum in Support of <i>Motion to Strike Jury Demand</i> : (Notice generated by chambers) Motion Hearing set for 4/27/2016 at 10:00 AM in Rm 7.400 before Magistrate Judge Brooke C. Wells. (mjw) (Entered: 03/21/2016)
03/25/2016	<u>35</u>	REPORT OF ATTORNEY PLANNING MEETING. (Hines, Erin) (Entered: 03/25/2016)
04/05/2016	<u>36</u>	NOTICE of Appearance by Rodney R. Parker on behalf of International Automated Systems, Neldon Johnson, LTB1, RaPower-3 (Parker, Rodney) (Entered: 04/05/2016)
04/06/2016	<u>37</u>	<b>SCHEDULING ORDER: Initial Pretrial Conference vacated. Amended Pleadings due by 11/4/2016. Joinder of Parties due by 11/4/2016. Expert Discovery due by 10/6/2017. Motions due by 11/10/2017. Final Pretrial Conference set for 4/2/2018 at 02:30 PM in Rm 3.100 before Judge David Nuffer. 10 Day Jury Trial set for 4/16/2018 at 08:30 AM in Rm 3.100 before Judge David Nuffer. Signed by Magistrate Judge Evelyn J. Furse on 4/5/16 (alt)</b> (Entered: 04/06/2016)
04/06/2016	<u>38</u>	NOTICE of Appearance by Richard A. Van Wagoner on behalf of International Automated Systems, Neldon Johnson, LTB1, RaPower-3 (Van Wagoner, Richard) (Entered: 04/06/2016)
04/11/2016	<u>39</u>	MOTION for Protective Order and Memorandum in Support <i>Relief re DUCivR26-2</i> filed by Plaintiff USA. Motions referred to Brooke C. Wells.(Hines, Erin) Modified on 9/20/2016: corrected text (alt) (Entered: 04/11/2016)
04/22/2016	<u>40</u>	<b>DOCKET TEXT ORDER – The court orders the parties to follow the Short Form Discovery Motion procedure as outlined in the attached document in this case for all discovery disputes arising after this date. Signed by Judge David Nuffer on 4/22/2016.</b> (jds) (Entered: 04/22/2016)
04/25/2016	<u>41</u>	MEMORANDUM in Opposition re <u>39</u> MOTION for Protective Order and Memorandum in Support <i>Motion for Relief from Standard Protective Order and DUCivR26-2</i> filed by Defendants International Automated Systems, Neldon Johnson, LTB1, RaPower-3. (Parker, Rodney) (Entered: 04/25/2016)
04/27/2016	42	Minute Order. Proceedings held before Magistrate Judge Brooke C. Wells. Motion Hearing held on 4/27/2016 re <u>31</u> MOTION to Strike and Memorandum in Support of <i>Motion to Strike Jury Demand</i> filed by USA. Court heard from cnsl. Court took under advisement <u>31</u> Motion to Strike. Order to issue.

		Attorney for Plaintiff: Christopher R. Moran, Erin R. Hines, Attorney for Defendant James S. Judd, Rodney R. Parker, Donald S. Reay. Court Reporter: electronic.(Time Start: 10:00, Time End: 11:00, Room 7.4.) (mlp) (Entered: 04/29/2016)
05/02/2016	<u>43</u>	<b>MEMORANDUM DECISION AND ORDER</b> granting <u>31</u> Motion to Strike Jury Demand. Signed by Magistrate Judge Brooke C. Wells on 5/2/16 (alt) (Entered: 05/02/2016)
05/09/2016	<u>44</u>	REPLY to Response to Motion re <u>39</u> MOTION for Protective Order and Memorandum in Support <i>Motion for Relief from Standard Protective Order and DUCivR26-2</i> filed by Plaintiff USA. (Hines, Erin) (Entered: 05/09/2016)
05/13/2016	<u>45</u>	REQUEST for Oral Argument re <u>39</u> MOTION for Protective Order and Memorandum in Support <i>Motion for Relief from Standard Protective Order and DUCivR26-2</i> filed by Defendants International Automated Systems, Neldon Johnson, LTB1, RaPower-3. (Judd, James) (Entered: 05/13/2016)
05/18/2016	<u>46</u>	SUBSTITUTION OF COUNSEL Justin D. Heideman replacing Rodney R. Parker; Richard A. Van Wagoner; Samuel Alba and James S. Judd as counsel on behalf of International Automated Systems, Neldon Johnson, LTB1, RaPower-3. (Heideman, Justin) (Entered: 05/18/2016)
05/27/2016	<u>47</u>	CERTIFICATE OF SERVICE by Roger Freeborn, R. Gregory Shepard <i>Responses to Plaintiff's First Interrogatories to Defendants</i> (Reay, Donald) (Entered: 05/27/2016)
05/27/2016	<u>48</u>	CERTIFICATE OF SERVICE by International Automated Systems, Neldon Johnson, LTB1, RaPower-3 <i>Responses to Plaintiff's First Interrogatories to Defendant LTB1</i> (Heideman, Justin) (Entered: 05/27/2016)
05/27/2016	<u>49</u>	CERTIFICATE OF SERVICE by International Automated Systems, Neldon Johnson, LTB1, RaPower-3 <i>Responses to Plaintiff's First Interrogatories to Defendant International Automated Systems, Inc.</i> (Heideman, Justin) (Entered: 05/27/2016)
06/13/2016	50	<b>NOTICE OF HEARING ON MOTION</b> re: <u>39</u> MOTION for Protective Order and Memorandum in Support <i>Motion for Relief from Standard Protective Order and DUCivR26-2</i> : (Notice generated by chambers) Motion Hearing set for 7/27/2016 at 02:00 PM in Rm 7.400 before Magistrate Judge Brooke C. Wells. (mjw) (Entered: 06/13/2016)
06/17/2016	<u>51</u>	CERTIFICATE OF SERVICE by Roger Freeborn, R. Gregory Shepard <i>Responses to Plaintiff's First RPD and Supplemental Responses to Plaintiff's First Interrogatories to Defendants</i> (Reay, Donald) (Entered: 06/17/2016)
06/20/2016	<u>52</u>	NOTICE OF FILING of Certificate of Service <i>Defendant's Production of Documents</i> filed by Defendants International Automated Systems, Neldon Johnson, LTB1, RaPower-3. (Heideman, Justin) (Entered: 06/20/2016)
06/21/2016	<u>53</u>	MOTION to Compel RaPower-3, LLC to respond to Plaintiff's First Interrogatories and Memorandum in Support , MOTION to Expedite resolution of motion (in accordance with Short Form Discovery Motion Procedure) and Memorandum in Support filed by Plaintiff USA. (Attachments: # <u>1</u> Exhibit A, # <u>2</u> Text of Proposed Order) Motions referred to

		Brooke C. Wells.(Moran, Christopher) (Entered: 06/21/2016)
06/21/2016	<u>54</u>	NOTICE OF FILING of Certificate of Service of <i>Defendant RaPower-3 Responses to First Set of Interrogatories</i> filed by Defendant RaPower-3. (Heideman, Justin) (Entered: 06/21/2016)
06/22/2016	<u>55</u>	MOTION to Compel LTB1 to Sign and Supplement its Responses to Plaintiff's First Interrogatories and Memorandum in Support , MOTION to Expedite resolution of motion (in accordance with Short Form Discovery Motion Procedure) and Memorandum in Support filed by Plaintiff USA. (Attachments: # <u>1</u> Exhibit USA's First Interrogatories to LTB1, LLC, # <u>2</u> Exhibit LTB1's response to USA's First Interrogatories, # <u>3</u> Exhibit 2016 0602 USA Letter to Justin Heideman) Motions referred to Brooke C. Wells.(Moran, Christopher) (Entered: 06/22/2016)
06/22/2016	<u>56</u>	MOTION to Compel IAS to sign and supplement its responses to USA's first interrogatories and Memorandum in Support , MOTION to Expedite resolution of motion (in accordance with Short Form Discovery Motion Procedure) and Memorandum in Support filed by Plaintiff USA. (Attachments: # <u>1</u> Exhibit USA's First Interrogatories to IAS, # <u>2</u> Exhibit IAS' Responses to USA's First Interrogatories, # <u>3</u> Exhibit 2016 0602 USA Letter to Justin Heideman, # <u>4</u> Text of Proposed Order) Motions referred to Brooke C. Wells.(Moran, Christopher) (Entered: 06/22/2016)
06/22/2016	<u>57</u>	MOTION to Compel Neldon Johnson to Sign and Supplement response to USA's First Interrogatories and Memorandum in Support , MOTION to Expedite resolution of motion (in accordance with Short Form Discovery Motion Procedure) and Memorandum in Support filed by Plaintiff USA. (Attachments: # <u>1</u> Exhibit USA's First Interrogatories to Neldon Johnson, # <u>2</u> Exhibit Neldon Johnson's responses to USA's First Interrogatories, # <u>3</u> Exhibit 2016 0602 USA Letter to Justin Heideman, # <u>4</u> Text of Proposed Order) Motions referred to Brooke C. Wells.(Moran, Christopher) (Entered: 06/22/2016)
06/23/2016	<u>58</u>	<del>RE-FILED AS <u>59</u> AMENDED MOTION – Supplemental MOTION to Amend/Correct <u>53</u> MOTION to Compel RaPower-3, LLC to respond to Plaintiff's First Interrogatories and Memorandum in Support MOTION to Expedite resolution of motion (in accordance with Short Form Discovery Motion Procedure) and Memorandum in Support and Memorandum in Support filed by Plaintiff USA. (Attachments: # <u>1</u> Exhibit RaPower-3's responses to USA's first interrogatories, # <u>2</u> Exhibit 2016 0602 USA Letter to Justin Heideman) Motions referred to Brooke C. Wells.(Moran, Christopher)</del> Modified on 6/27/2016: added re-filing info (alt) (Entered: 06/23/2016)
06/27/2016	<u>59</u>	Amended MOTION to Compel RaPower-3, LLC to respond to Plaintiff's First Interrogatories and Memorandum in Support filed by Plaintiff USA. (Attachments: # <u>1</u> Exhibit RaPower-3's responses to USA's first interrogatories, # <u>2</u> Exhibit 2016 0602 USA Letter to Justin Heideman) Motions referred to Brooke C. Wells.(Moran, Christopher) (Entered: 06/27/2016)
06/27/2016		Modification of Docket re <u>58</u> Supplemental MOTION to Amend/Correct <u>53</u> MOTION to Compel RaPower-3, LLC to respond to Plaintiff's First Interrogatories. Error: Document was filed incorrectly as a Motion to Amend.

		Correction: Motion has been correctly re-filed as <u>59</u> Amended Motion to Compel. (alt) (Entered: 06/27/2016)
06/27/2016	<u>60</u>	<b>ORDER setting briefing on <u>55</u> Motion to Compel, <u>56</u> Motion to Compel, <u>57</u> Motion to Compel, <u>59</u> Amended Motion to Compel: Oppositions due 7/7/16; Replies due 7/12/16. Parties are to notify court of the resolution of any issues on or before 7/15/16. Signed by Magistrate Judge Brooke C. Wells on 6/27/16 (alt) (Entered: 06/27/2016)</b>
07/05/2016	<u>61</u>	STIPULATION to Extend Time to Answer Requests for Discovery by International Automated Systems, Neldon Johnson, LTB1, RaPower-3. (Heideman, Justin) (Entered: 07/05/2016)
07/11/2016	<u>62</u>	MOTION to Quash Subpoena filed by Defendants International Automated Systems, Neldon Johnson, LTB1, RaPower-3. Motions referred to Brooke C. Wells.(Heideman, Justin) (Entered: 07/11/2016)
07/14/2016	<u>63</u>	NOTICE OF FILING filed by Defendants International Automated Systems, Neldon Johnson, LTB1, RaPower-3. (Heideman, Justin) (Entered: 07/14/2016)
07/14/2016	<u>64</u>	MEMORANDUM in Opposition re <u>59</u> Amended MOTION to Compel RaPower-3 to Respond to First Interrogatories filed by Defendants International Automated Systems, Neldon Johnson, LTB1, RaPower-3. (Heideman, Justin) (Entered: 07/14/2016)
07/15/2016	<u>65</u>	MOTION to Quash <i>Subpoenas</i> filed by Defendants International Automated Systems, Neldon Johnson, LTB1, RaPower-3. Motions referred to Brooke C. Wells.(Heideman, Justin) (Entered: 07/15/2016)
07/19/2016	<u>66</u>	REPLY to Response to Motion re <u>57</u> MOTION to Compel Neldon Johnson to Sign and Supplement Response to First Interrogatories MOTION to Expedite filed by Plaintiff USA. (Attachments: # <u>1</u> Exhibit Neldon Johnson's Signed, Supplemental Responses to the United States' First Interrogatories)(Moran, Christopher) (Entered: 07/19/2016)
07/19/2016	<u>67</u>	REPLY to Response to Motion re <u>55</u> MOTION to Compel LTB1 to Sign and Supplement Responses to First Interrogatories MOTION to Expedite filed by Plaintiff USA. (Attachments: # <u>1</u> Exhibit LTB's Signed, Supplemental Responses to the United States' First Interrogatories)(Moran, Christopher) (Entered: 07/19/2016)
07/19/2016	<u>68</u>	REPLY to Response to Motion re <u>56</u> MOTION to Compel IAS to Sign and Supplement Responses to First Interrogatories MOTION to Expedite filed by Plaintiff USA. (Attachments: # <u>1</u> Exhibit IAS's Signed, Supplemental Responses to the United States' First Interrogatories)(Moran, Christopher) (Entered: 07/19/2016)
07/19/2016	<u>69</u>	REPLY to Response to Motion re <u>59</u> Amended MOTION to Compel RaPower-3 to Respond to First Interrogatories, <u>53</u> MOTION to Compel RaPower-3 to Respond to First Interrogatories MOTION to Expedite filed by Plaintiff USA. (Attachments: # <u>1</u> Exhibit RaPower-3's Signed, Supplemental Responses to the United States' First Interrogatories)(Moran, Christopher) (Entered: 07/19/2016)
07/21/2016	<u>70</u>	

		MOTION to Quash Subpoena filed by Defendants International Automated Systems, Neldon Johnson, LTB1, RaPower-3. Motions referred to Brooke C. Wells.(Heideman, Justin) (Entered: 07/21/2016)
07/25/2016	<u>71</u>	MEMORANDUM in Opposition re <u>62</u> MOTION to Quash Subpoena filed by Plaintiff USA. (Attachments: # <u>1</u> Exhibit Emails re: Notice of Intent to Subpoena, # <u>2</u> Exhibit Subpoena)(Hines, Erin) (Entered: 07/25/2016)
07/27/2016	<u>72</u>	Minute Order. Proceedings held before Magistrate Judge Brooke C. Wells. Motion Hearing held on 7/27/2016 re <u>39</u> MOTION for Protective Order and Memorandum in Support <i>Motion for Relief from Standard Protective Order and DUCivR26-2</i> filed by USA. Court heard from parties and took under advisement <u>39</u> Motion for Protective Order. Both parties have until Wednesday, August 3, 2016 to submit cases found that support their position.  Attorney for Plaintiff: Erin Healy Gallagher, Christopher R. Moran, Attorney for Defendant Justin D. Heideman, Donald S. Reay. Court Reporter: electronic.(Time Start: 2:00, Time End: 2:45, Room 7.4.) (mlp) (Entered: 07/28/2016)
08/01/2016	<u>73</u>	MEMORANDUM in Opposition re <u>65</u> MOTION to Quash <i>Subpoenas</i> filed by Plaintiff USA. (Attachments: # <u>1</u> Exhibit A, emails regarding notice of subpoenas, # <u>2</u> Exhibit B, subpoena to Bank of American Fork)(Gallagher, Erin) (Entered: 08/01/2016)
08/02/2016	<u>74</u>	NOTICE of filing a corrected exhibit by USA re <u>71</u> Memorandum in Opposition to Motion (Attachments: # <u>1</u> Exhibit A, emails regarding notice of subpoenas) (Gallagher, Erin) (Entered: 08/02/2016)
08/03/2016	<u>75</u>	NOTICE OF FILING filed by Defendants International Automated Systems, Neldon Johnson, LTB1, RaPower-3. (Heideman, Justin) (Entered: 08/03/2016)
08/03/2016	<u>76</u>	NOTICE of SUPPLEMENTAL AUTHORITY by USA re <u>39</u> MOTION for Protective Order and Memorandum in Support <i>Motion for Relief from Standard Protective Order and DUCivR26-2</i> , 72 Order on Motion for Protective Order, Motion Hearing,,,, (Hines, Erin) (Entered: 08/03/2016)
08/05/2016	<u>77</u>	MEMORANDUM in Opposition re <u>70</u> MOTION to Quash Subpoena filed by Plaintiff USA. (Attachments: # <u>1</u> Exhibit A, emails regarding notice of subpoenas, # <u>2</u> Exhibit B, subpoena to Wells Fargo Bank, N.A.)(Gallagher, Erin) (Entered: 08/05/2016)
08/08/2016	<u>78</u>	REPLY to Response to Motion re <u>62</u> MOTION to Quash Subpoena filed by Defendants International Automated Systems, Neldon Johnson, LTB1, RaPower-3. (Heideman, Justin) (Entered: 08/08/2016)
08/08/2016	<u>79</u>	NOTICE of Appearance by Justin D. Heideman on behalf of International Automated Systems, Neldon Johnson, LTB1, RaPower-3 (Heideman, Justin) (Entered: 08/08/2016)
08/08/2016	<u>80</u>	NOTICE of Appearance by Justin D. Heideman on behalf of International Automated Systems, Neldon Johnson, LTB1, RaPower-3 (Heideman, Justin) (Entered: 08/08/2016)
08/15/2016	<u>81</u>	



		MEMORANDUM in Support re <u>65</u> MOTION to Quash <i>Subpoenas</i> filed by Defendants International Automated Systems, Neldon Johnson, LTB1, RaPower-3. (Heideman, Justin) (Entered: 08/15/2016)
08/19/2016	<u>82</u>	RESPONSE to Motion re <u>70</u> MOTION to Quash Subpoena filed by Defendants International Automated Systems, Neldon Johnson, LTB1, RaPower-3. (Heideman, Justin) (Entered: 08/19/2016)
08/19/2016	<u>83</u>	MOTION to Quash Production of Information and Subpoenas filed by Defendants International Automated Systems, Neldon Johnson, LTB1, RaPower-3. Motions referred to Brooke C. Wells.(Heideman, Justin) (Entered: 08/19/2016)
08/19/2016	<u>84</u>	MOTION to Quash Subpoenas filed by Defendants International Automated Systems, Neldon Johnson, LTB1, RaPower-3. Motions referred to Brooke C. Wells.(Heideman, Justin) (Entered: 08/19/2016)
09/02/2016	<u>85</u>	MEMORANDUM in Opposition re <u>83</u> MOTION to Quash Production of Information and Subpoenas filed by Plaintiff USA. (Attachments: # <u>1</u> Exhibit Exhibit List, # <u>2</u> Exhibit A Excerpts from the Deposition of Frank F. Lunn, # <u>3</u> Exhibit B Excerpts from the Deposition of Brian Zeleznik, # <u>4</u> Exhibit C Excerpts from the Deposition of Lynette L. Williams, # <u>5</u> Exhibit D Excerpts from the Deposition of Preston F. Olsen, # <u>6</u> Exhibit E Pl. U.S.s Notice of Intent to Subpoena Docs. dated March 14, 2016, # <u>7</u> Exhibit F Pl. U.S.s Notice of Intent to Subpoena Docs dated April 29, 2016, # <u>8</u> Exhibit G Letter from Erin Healy Gallagher to Paul Jones dated August 16, 2016, # <u>9</u> Exhibit H Email correspondence from Gregory Shepard produced by a third-party, # <u>10</u> Exhibit I Excerpts from Gregory Shepards Response to United States First, # <u>11</u> Exhibit J Email correspondence from Gregory Shepard produced by a third-party, # <u>12</u> Exhibit K Excerpts from the Deposition of Robert Rowbotham, # <u>13</u> Exhibit L Flyer for Solar Energy Celebration, # <u>14</u> Exhibit M Email correspondence from Gregory Shepard produced by a third-party, # <u>15</u> Exhibit N Excerpt from email correspondence from Gregory Shepard produced by, # <u>16</u> Exhibit O Email correspondence from Gregory Shepard produced by a third-party, # <u>17</u> Exhibit 4 Printout of www.rapower3.com: RaPower3 Technology dated March, # <u>18</u> Exhibit 16 New Solar Breakthrough May Compete with Gas downloaded from, # <u>19</u> Exhibit 17 IAUS Technical Overview downloaded from prior version of, # <u>20</u> Exhibit 21 Printout of www.rapower3.com: Site Tours dated March 2, 2015, # <u>21</u> Exhibit 35 Subpoena to Frank Lunn dated March 21, 2016, # <u>22</u> Exhibit 42 RaPower3 Member Office printout from Frank F. Lunn dated, # <u>23</u> Exhibit 114 Email correspondence from Gregory Shepard produced by a third-party, # <u>24</u> Exhibit 118 Subpoena to Lynette L. Williams dated May 6, 2016, # <u>25</u> Exhibit 154 Email correspondence produced by Preston F. Olsen)(Gallagher, Erin) (Entered: 09/02/2016)
09/02/2016	<u>86</u>	MEMORANDUM in Opposition re <u>84</u> MOTION to Quash Subpoenas filed by Plaintiff USA. (Attachments: # <u>1</u> Exhibit Exhibit List, # <u>2</u> Exhibit A Email correspondence from Gregory Shepard produced by a third-party, # <u>3</u> Exhibit B Email correspondence from Gregory Shepard produced by a third-party, # <u>4</u> Exhibit C Excerpts from the Deposition of Frank F. Lunn, # <u>5</u> Exhibit D Excerpts from the Deposition of Brian Zeleznik, # <u>6</u> Exhibit E Excerpts from the Deposition of Lynette L. Williams, # <u>7</u> Exhibit F Excerpts from the

		Deposition of Preston F. Olsen, # <u>8</u> Exhibit G Email correspondence from Gregory Shepard produced by a third-party, # <u>9</u> Exhibit H Pl. U.S.s Notice of Intent to Subpoena Docs. dated July 21, 2016, # <u>10</u> Exhibit I Email correspondence from Gregory Shepard produced by a third-party, # <u>11</u> Exhibit J Excerpts from Gregory Shepards Response to United States First, # <u>12</u> Exhibit K Email correspondence from Gregory Shepard produced by a third-party, # <u>13</u> Exhibit L Excerpts from the Deposition of Robert Rowbotham, # <u>14</u> Exhibit M Flyer for Solar Energy Celebration, # <u>15</u> Exhibit N Email correspondence from Gregory Shepard produced by a third-party, # <u>16</u> Exhibit O Excerpt from email correspondence from Gregory Shepard produced by, # <u>17</u> Exhibit P Email correspondence from Gregory Shepard produced by a third-party, # <u>18</u> Exhibit 4 Printout of www.rapower3.com: RaPower3 Technology dated March, # <u>19</u> Exhibit 16 New Solar Breakthrough May Compete with Gas downloaded from, # <u>20</u> Exhibit 17 IAUS Technical Overview downloaded from prior version of, # <u>21</u> Exhibit 21 Printout of www.rapower3.com: Site Tours dated March 2, 2015, # <u>22</u> Exhibit 42 RaPower3 Member Office printout from Frank F. Lunn dated, # <u>23</u> Exhibit 114 Email correspondence from Gregory Shepard produced by a third-party, # <u>24</u> Exhibit 154 Email correspondence produced by Preston F. Olsen)(Gallagher, Erin) (Entered: 09/02/2016)
09/16/2016	<u>87</u>	MOTION to Quash Subpoena filed by Defendants International Automated Systems, Neldon Johnson, LTB1, RaPower-3. (Attachments: # <u>1</u> Exhibit Subpoena to Kenneth Birrell) Motions referred to Brooke C. Wells.(Heideman, Justin) (Entered: 09/16/2016)
09/16/2016	<u>88</u>	REPLY to Response to Motion re <u>83</u> MOTION to Quash Production of Information and Subpoenas filed by Defendants International Automated Systems, Neldon Johnson, LTB1, RaPower-3. (Heideman, Justin) (Entered: 09/16/2016)
09/16/2016	<u>89</u>	REPLY to Response to Motion re <u>84</u> MOTION to Quash Subpoenas filed by Defendants International Automated Systems, Neldon Johnson, LTB1, RaPower-3. (Heideman, Justin) (Entered: 09/16/2016)
09/16/2016	<u>90</u>	MOTION to Bifurcate and Memorandum in Support filed by Defendants International Automated Systems, Neldon Johnson, LTB1, RaPower-3. Motions referred to Brooke C. Wells.(Heideman, Justin) (Entered: 09/16/2016)
09/19/2016	91	Motions No Longer Referred: <u>90</u> MOTION to Bifurcate and Memorandum in Support (jcw) (Entered: 09/19/2016)
09/20/2016	<u>92</u>	<b>MEMORANDUM DECISION AND ORDER granting <u>39</u> Motion for Relief from Standard Protective Order. Case is stayed for 45 days to allow the parties to negotiate a new protective order. Signed by Magistrate Judge Brooke C. Wells on 9/20/16 (alt)</b> (Entered: 09/20/2016)
10/03/2016	<u>93</u>	MOTION for Leave to File Excess Pages and Memorandum in Support <i>re Motion to Bifurcate</i> filed by Plaintiff USA. (Attachments: # <u>1</u> Text of Proposed Order) Motions referred to Brooke C. Wells.(Gallagher, Erin) (Entered: 10/03/2016)
10/03/2016	<u>94</u>	MOTION to Bifurcate and Memorandum in Support filed by Defendants Roger Freeborn, R. Gregory Shepard. Motions referred to Brooke C.

		Wells.(Reay, Donald) (Entered: 10/03/2016)
10/03/2016	<u>95</u>	MEMORANDUM in Opposition re <u>94</u> MOTION to Bifurcate, <u>90</u> MOTION to Bifurcate filed by Plaintiff USA. (Attachments: # <u>1</u> Exhibit Exhibit List, # <u>2</u> Exhibit A – Email correspondence from Gregory Shepard produced by a third-party customer dated July 19, 2012, # <u>3</u> Exhibit B – Printout of www.rapower3.com: Start Your Own RaPower3 [sic] Business dated March 2, 2015, # <u>4</u> Exhibit C – Printout of www.rapower3.com: Start Your Own RaPower3 [sic] Business dated May 1, 2014, # <u>5</u> Exhibit Email correspondence from Gregory Shepard produced by a third-party customer dated February 19, 2016, # <u>6</u> Exhibit E – United States First Requests for the Production of Documents to Defendant Neldon Johnson, # <u>7</u> Exhibit F – Excerpts from the Deposition of Frank F. Lunn, # <u>8</u> Exhibit 10 – Letter from Gregory Shepard dated March 20, 2015, from IRS files, # <u>9</u> Exhibit 19 – Printout of www.rapower3.com: Your BIG and Quick Payout dated March 2, 2015, # <u>10</u> Exhibit 25 – Printout of www.rapower3.com: Satisfying the IRS Depreciation Conditions dated March 2, 2015, # <u>11</u> Exhibit 26 – Printout of www.rapower3.com: RaPower3 [sic] Basics dated March 2, 2015, # <u>12</u> Exhibit 32 – Email correspondence from Gregory Shepard produced by a third-party customer dated November 11, 2013, # <u>13</u> Exhibit 34 – Printout of www.rapower3.com: Your BIG and Quick Payout dated May 1, 2014, # <u>14</u> Exhibit 35 – Subpoena for the production of documents to Frank F. Lunn, # <u>15</u> Exhibit 89 – Email correspondence from Gregory Shepard produced by a third-party customer dated January 17, 2014)(Gallagher, Erin) (Entered: 10/03/2016)
10/04/2016	96	Motions No Longer Referred: <u>90</u> MOTION to Bifurcate, <u>94</u> MOTION to Bifurcate and Memorandum in Support , <u>93</u> MOTION for Leave to File Excess Pages <i>re Motion to Bifurcate</i> (jcw) (Entered: 10/04/2016)
10/04/2016	97	<b>DOCKET TEXT ORDER granting <u>93</u> Motion for Leave to File Excess Pages. The United States may file a brief in opposition to the motion for bifurcation of 24 total pages. Signed by Judge David Nuffer on 10/4/2016. (jcw)</b> (Entered: 10/04/2016)
10/07/2016	<u>98</u>	Joint MOTION for Continued Discovery During Stay filed by Plaintiff USA. (Attachments: # <u>1</u> Joint Stipulation Regarding Continued Discovery During 45 Day Stay, # <u>2</u> Text of Proposed Order Approving Joint Stipulation) Motions referred to Brooke C. Wells.(Gallagher, Erin) Modified on 10/7/2016: corrected text (alt) (Entered: 10/07/2016)
10/07/2016	<u>99</u>	<b>ORDER granting <u>98</u> Stipulated Motion for Continued Discovery During Stay. Signed by Magistrate Judge Brooke C. Wells on 10/7/16 (alt)</b> (Entered: 10/07/2016)
10/17/2016	<u>100</u>	REPLY to Response to Motion re <u>90</u> MOTION to Bifurcate filed by Defendants International Automated Systems, Neldon Johnson, LTB1, RaPower-3. (Heideman, Justin) (Entered: 10/17/2016)
10/18/2016	<u>101</u>	REPLY to Response to Motion re <u>94</u> MOTION to Bifurcate <i>and Joinder</i> filed by Defendants Roger Freeborn, R. Gregory Shepard. (Reay, Donald) (Entered: 10/18/2016)
10/20/2016	<u>102</u>	STATUS REPORT <i>Regarding Protective Order</i> by USA. (Moran, Christopher) (Entered: 10/20/2016)

10/21/2016	<u>103</u>		ERRATA to <u>100</u> Reply Memorandum/Reply to Response to Motion filed by Defendants International Automated Systems, Neldon Johnson, LTB1, RaPower-3 . (Heideman, Justin) (Entered: 10/21/2016)
10/24/2016	<u>104</u>		<b>ORDER: on or by 11/3/16, the parties are to file a new stipulated protective order and a status report regarding the pending motions. Signed by Magistrate Judge Brooke C. Wells on 10/24/16 (alt)</b> (Entered: 10/24/2016)
11/03/2016	<u>105</u>		STATUS REPORT by USA. (Gallagher, Erin) (Entered: 11/03/2016)
11/03/2016	<u>106</u>		NOTICE OF FILING of United States' Proposed Protective Order filed by Plaintiff USA. (Gallagher, Erin) (Entered: 11/03/2016)
11/03/2016	<u>107</u>		<b>*ENTRY ERROR* – Disregard, Incorrect Document Attached. NOTICE OF FILING of Proposed Stipulated Protective Order filed by Defendants Roger Freeborn, International Automated Systems, Neldon Johnson, LTB1, RaPower-3, R. Gregory Shepard. (Heideman, Justin)</b> Modified by striking entry and adding error text on 11/3/2016 (eat). (Entered: 11/03/2016)
11/03/2016	<u>108</u>		STATUS REPORT by Roger Freeborn, International Automated Systems, Neldon Johnson, LTB1, RaPower-3, R. Gregory Shepard. (Heideman, Justin) (Entered: 11/03/2016)
11/03/2016	<u>109</u>		Modification of Docket: Error: counsel uploaded the wrong document. Correction: docket entry stricken and error message added re <u>107</u> Notice of Filing. (eat) (Entered: 11/03/2016)
11/03/2016	<u>110</u>		NOTICE OF FILING of Proposed Joint Stipulated Protective Order filed by Defendants Roger Freeborn, International Automated Systems, Neldon Johnson, LTB1, RaPower-3, R. Gregory Shepard. (Heideman, Justin) (Entered: 11/03/2016)
11/04/2016	<u>111</u>		MOTION for Extension of Time to file a motion to amend complaint and join parties and Memorandum in Support filed by Plaintiff USA. (Attachments: # <u>1</u> Exhibit A, "Defendant Neldon Johnson's Production of Documents") Motions referred to Brooke C. Wells.(Gallagher, Erin) (Entered: 11/04/2016)
11/04/2016	<u>112</u>		Joint MOTION for Extension of Time to Complete Discovery and Memorandum in Support filed by Defendants Roger Freeborn, International Automated Systems, Neldon Johnson, LTB1, RaPower-3, R. Gregory Shepard. (Attachments: # <u>1</u> Text of Proposed Order) Motions referred to Brooke C. Wells.(Reay, Donald) (Entered: 11/04/2016)
11/18/2016	<u>113</u>		MEMORANDUM in Opposition re <u>112</u> Joint MOTION for Extension of Time to Complete Discovery and Memorandum in Support filed by Plaintiff USA. (Gallagher, Erin) (Entered: 11/18/2016)
11/22/2016	<u>114</u>		REQUEST to Submit for Decision re <u>111</u> MOTION for Extension of Time to file a motion to amend complaint and join parties and Memorandum in Support filed by Plaintiff USA. (Moran, Christopher) (Entered: 11/22/2016)
11/29/2016	<u>115</u>		<b>DOCKET TEXT ORDER – The court orders the parties to follow the Short Form Discovery Motion procedure as outlined in the attached document in this case for all discovery disputes arising after this date. So ordered by Magistrate Judge Brooke C. Wells on 11/29/16 (docket text order only – no order attached) (alt)</b> (Entered: 11/29/2016)

11/29/2016	<u>116</u>	<b>PROTECTIVE ORDER. Signed by Magistrate Judge Brooke C. Wells on 11/29/16 (alt) (Entered: 11/29/2016)</b>
11/29/2016	<u>117</u>	<b>ORDER denying without prejudice <u>55</u> Motion to Compel; denying without prejudice <u>56</u> Motion to Compel; denying without prejudice <u>57</u> Motion to Compel; denying without prejudice <u>59</u> Motion to Compel; denying without prejudice <u>62</u> Motion to Quash; denying without prejudice <u>65</u> Motion to Quash; denying without prejudice <u>70</u> Motion to Quash; denying without prejudice <u>83</u> Motion to Quash; denying without prejudice <u>84</u> Motion to Quash; denying without prejudice <u>87</u> Motion to Quash; denying without prejudice <u>111</u> Motion for Extension of Time; granting in part and deeming moot in part <u>112</u> Motion for Extension of Time to Complete Discovery. Signed by Magistrate Judge Brooke C. Wells on 11/29/16 (alt) (Entered: 11/29/2016)</b>
01/04/2017	<u>118</u>	REQUEST to Submit for Decision re <u>90</u> MOTION to Bifurcate filed by Defendants International Automated Systems, Neldon Johnson, LTB1, RaPower-3. (Heideman, Justin) (Entered: 01/04/2017)
01/12/2017	<u>119</u>	CERTIFICATE OF SERVICE by R. Gregory Shepard <i>Supplemental Responses to US First Request for Production</i> (Reay, Donald) (Entered: 01/12/2017)
01/12/2017	<u>120</u>	CERTIFICATE OF SERVICE by R. Gregory Shepard <i>Response to the USA's Second Request for Production of Documents</i> (Reay, Donald) (Entered: 01/12/2017)
01/13/2017	<u>121</u>	CERTIFICATE OF SERVICE by International Automated Systems, Neldon Johnson, LTB1, RaPower-3 <i>Supplemental Responses to USA's Request for Production of Documents</i> (Heideman, Justin) (Entered: 01/13/2017)
01/31/2017	<u>122</u>	REQUEST to Submit for Decision re <u>90</u> MOTION to Bifurcate filed by Defendants International Automated Systems, Neldon Johnson, LTB1, RaPower-3. (Heideman, Justin) (Entered: 01/31/2017)
02/02/2017	<u>123</u>	NOTICE of Appearance by Byron G. Martin on behalf of Todd Anderson (Martin, Byron) (Entered: 02/02/2017)
02/02/2017	<u>124</u>	MOTION to Expedite Handling of Short Form Discovery Motion to Quash Subpoena , MOTION to Quash Subpoena filed by Movant Todd Anderson. (Attachments: # <u>1</u> Exhibit 1 – Subpoena to Todd Anderson, # <u>2</u> Exhibit 2 – Heideman E-mail, # <u>3</u> Text of Proposed Order) Motions referred to Brooke C. Wells.(Martin, Byron) (Entered: 02/02/2017)
02/02/2017	<u>125</u>	NOTICE of Appearance by Stuart H. Schultz on behalf of Todd Anderson (Schultz, Stuart) (Entered: 02/02/2017)
02/07/2017	<u>126</u>	MEMORANDUM in Opposition re <u>124</u> MOTION to Expedite Handling of Short Form Discovery Motion to Quash Subpoena MOTION to Quash Subpoena filed by Plaintiff USA. (Attachments: # <u>1</u> Exhibit 353, United States' correspondence of 12/1/2016, # <u>2</u> Exhibit 1, RaPower-3 website)(Moran, Christopher) (Entered: 02/07/2017)
02/14/2017	<u>127</u>	MOTION to Quash Subpoena to Todd Anderson and Memorandum in Support filed by Defendants International Automated Systems, Neldon Johnson, LTB1, RaPower-3. Motions referred to Brooke C. Wells.(Heideman, Justin) (Entered: 02/14/2017)

02/15/2017	<u>128</u>	REQUEST to Submit for Decision re <u>124</u> MOTION to Expedite Handling of Short Form Discovery Motion to Quash Subpoena MOTION to Quash Subpoena filed by Movant Todd Anderson. (Martin, Byron) (Entered: 02/15/2017)
02/16/2017	<u>129</u>	MEMORANDUM in Opposition re <u>127</u> MOTION to Quash Subpoena to Todd Anderson and Memorandum in Support filed by Plaintiff USA. (Attachments: # <u>1</u> Exhibit No. 378, Notice of Todd Anderson's Deposition)(Moran, Christopher) (Entered: 02/16/2017)
02/21/2017	<u>130</u>	CERTIFICATE OF SERVICE by International Automated Systems, Neldon Johnson, LTB1, RaPower-3 Responses to the US's Second Request for Production of Documents (Heideman, Justin) (Entered: 02/21/2017)
02/21/2017	<u>131</u>	CERTIFICATE OF SERVICE by International Automated Systems, Neldon Johnson, LTB1, RaPower-3 Responses to the US's Second Interrogatories to International Automated Systems, Neldon Johnson, LTB1, and RaPower-3 (Heideman, Justin) (Entered: 02/21/2017)
02/28/2017	<u>132</u>	<b>ORDER denying <u>124</u> Motion to Quash Subpoena; denying <u>127</u> Motion to Quash Subpoena. Signed by Magistrate Judge Brooke C. Wells on 2/28/17 (alt)</b> (Entered: 02/28/2017)
03/09/2017	<u>133</u>	Expedited MOTION for Leave to File Motions to Compel Deposition Testimony Under Seal and Memorandum in Support filed by Plaintiff USA. (Attachments: # <u>1</u> Text of Proposed Order) Motions referred to Brooke C. Wells.(Moran, Christopher) Modified on 3/10/2017 added Expedited text (las). (Entered: 03/09/2017)
03/10/2017	<u>134</u>	Amended MOTION for Leave to File Motions to Compel Deposition Testimony Under Seal and Memorandum in Support , MOTION to Expedite resolution of motion (in accordance with Short Form Discovery Motion Procedure) and Memorandum in Support filed by Plaintiff USA. (Attachments: # <u>1</u> Text of Proposed Order) Motions referred to Brooke C. Wells.(Moran, Christopher) (Entered: 03/10/2017)
03/15/2017	<u>135</u>	<b>ORDER granting <u>134</u> Motion for Leave to File Motions to Compel Deposition Testimony Under Seal. Signed by Magistrate Judge Brooke C. Wells on 3/15/17 (alt)</b> (Entered: 03/15/2017)
03/22/2017	<u>136</u>	NOTICE OF CONVENTIONAL FILING of Motion to Compel Deposition Testimony of Cody Buck, Ken Oveson, and David Mantyla filed by Plaintiff USA (Moran, Christopher) (Entered: 03/22/2017)
03/23/2017	<u>137</u>	<b>*SEALED DOCUMENT*</b> SEALED MOTION to Compel Deposition Testimony of Cody Buck, Ken Oveson, and David Mantyla and Memorandum in Support filed by Plaintiff USA (Attachments: # <u>1</u> Exhibit Index, # <u>2</u> Exhibit 87, # <u>3</u> Exhibit 136, # <u>4</u> Exhibit 214, # <u>5</u> Exhibit 221, # <u>6</u> Exhibit 244, # <u>7</u> Exhibit 372, # <u>8</u> Exhibit 373, # <u>9</u> Exhibit 374, # <u>10</u> Exhibit 376, # <u>11</u> Exhibit 377, # <u>12</u> Exhibit 381, # <u>13</u> Exhibit 383, # <u>14</u> Exhibit 384, # <u>15</u> Exhibit 385, # <u>16</u> Exhibit 386) Motion referred to Brooke C. Wells (alt) Modified on 7/19/2017 by unterming the motion. (lnp). Modified on 10/20/2017; Changed event type and Unsealed per <u>233</u> Order (jds). (Entered: 03/23/2017)
03/24/2017	<u>138</u>	

		MOTION to Compel Todd Anderson to Produce Documents and Memorandum in Support , MOTION to Expedite resolution of motion (in accordance with Short Form Discovery Motion Procedure) and Memorandum in Support filed by Plaintiff USA. (Attachments: # <u>1</u> Text of Proposed Order) Motions referred to Brooke C. Wells.(Moran, Christopher) Modified on 3/24/2017: corrected text (alt) (Entered: 03/24/2017)
03/24/2017	<u>139</u>	MOTION for Leave to File Movants' Response to United States' Motion to Compel , MOTION to Seal re <u>137</u> SEALED MOTION to Compel Deposition Testimony of Cody Buck, Ken Oveson, and David Mantyla filed by Movants Cody Buck, David Mantyla, Ken Oveson. Motions referred to Brooke C. Wells.(Benson, Eric) (Entered: 03/24/2017)
03/28/2017	<u>140</u>	MOTION to Compel deposition testimony of Kenneth Birrell and Memorandum in Support filed by Plaintiff USA. (Attachments: # <u>1</u> Exhibit 231, # <u>2</u> Exhibit 370, # <u>3</u> Exhibit 409, # <u>4</u> Exhibit 410, # <u>5</u> Exhibit 411 excerpt, # <u>6</u> Exhibit 412 excerpt) Motions referred to Brooke C. Wells.(Gallagher, Erin) (Entered: 03/28/2017)
03/28/2017	<u>141</u>	<b>ORDER granting <u>139</u> Motion to File Response to Motion to Compel Under Seal. Signed by Magistrate Judge Brooke C. Wells on 3/28/17 (alt)</b> (Entered: 03/28/2017)
03/28/2017	<u>142</u>	Defendant's RESPONSE To <i>United States' Request to Enter Onto Land For Inspection</i> filed by International Automated Systems, Neldon Johnson, LTB1, RaPower-3. (Heideman, Justin) (Entered: 03/28/2017)
03/29/2017	<u>143</u>	MOTION to Compel Defendants Neldon Johnson, RaPower-3, LLC, International Automated Systems, Inc., and LTB1, LLC to answer certain interrogatories and Memorandum in Support filed by Plaintiff USA. (Attachments: # <u>1</u> Exhibit excerpts from Pl. Ex. 413 Neldon Johnson's Resp. to US 1st Interrogs., # <u>2</u> Exhibit excerpts from Pl. Ex. 414, Def. RaPower-3's Resp. to US 1st Set of Interrogs., # <u>3</u> Exhibit excerpts from Pl. Ex. 415, IAS's Resp. to US 1st Interrogs., # <u>4</u> Exhibit excerpts from Pl. Ex. 416, LTB1's Resp. to US 1st Interrogs.) Motions referred to Brooke C. Wells.(Gallagher, Erin) (Entered: 03/29/2017)
03/29/2017	<u>144</u>	MEMORANDUM in Opposition re <u>138</u> MOTION to Compel Todd Anderson to Produce Documents MOTION to Expedite resolution of motion filed by Movant Todd Anderson. (Attachments: # <u>1</u> Text of Proposed Order Order Denying United States' Motion to Compel Todd Anderson to Produce Documents)(Martin, Byron) (Entered: 03/29/2017)
03/30/2017	<u>145</u>	<b>ORDER OF RECUSAL. Magistrate Judge Brooke C. Wells recused. Magistrate Referral reassigned to Magistrate Judge Evelyn J. Furse under 28:636(b)(1)(A) to hear and determine all nondispositive pretrial matters. Motions referred to Evelyn J. Furse. Case number is now 2:15cv00828 DN-EJF. Signed by Magistrate Judge Brooke C. Wells on 3/30/17 (alt)</b> (Entered: 03/30/2017)
03/31/2017	<u>146</u>	RESPONSE to Motion re <u>140</u> MOTION to Compel deposition testimony of Kenneth Birrell and Memorandum in Support filed by Movant Kenneth Birrell. (Attachments: # <u>1</u> Text of Proposed Order) Attorney Christopher S. Hill added to party Kenneth Birrell(pty:mov)(Hill, Christopher) (Entered: 03/31/2017)

04/03/2017	<u>147</u>	RESPONSE to Motion re <u>137</u> SEALED MOTION to Compel Deposition Testimony of Cody Buck, Ken Oveson, and David Mantyla filed by Defendants International Automated Systems, Neldon Johnson, LTB1, RaPower-3. (Heideman, Justin) (Entered: 04/03/2017)
04/03/2017	<u>148</u>	RESPONSE to Motion re <u>137</u> SEALED MOTION to Compel Deposition Testimony of Cody Buck, Ken Oveson, and David Mantyla <i>Short Form Response</i> filed by Defendants International Automated Systems, Neldon Johnson, LTB1, RaPower-3. (Heideman, Justin) (Entered: 04/03/2017)
04/04/2017	149	<b><u>NOTICE OF HEARING ON MOTION</u></b> re: <u>143</u> MOTION to Compel Defendants Neldon Johnson, RaPower-3, LLC, International Automated Systems, Inc., and LTB1, LLC to answer certain interrogatories and Memorandum in Support , <u>138</u> MOTION to Compel Todd Anderson to Produce Documents MOTION to Expedite resolution of motion, <u>137</u> SEALED MOTION to Compel Deposition Testimony of Cody Buck, Ken Oveson, and David Mantyla, <u>140</u> MOTION to Compel deposition testimony of Kenneth Birrell and Memorandum in Support : (Notice generated by EJF Chambers) Motion Hearing set for 4/7/2017 at 02:00 PM in Rm 7.400 before Magistrate Judge Evelyn J. Furse. (lnp) (Entered: 04/04/2017)
04/04/2017	<u>150</u>	RESPONSE to Motion re <u>138</u> MOTION to Compel Todd Anderson to Produce Documents MOTION to Expedite resolution of motion filed by Defendants International Automated Systems, Neldon Johnson, LTB1, RaPower-3. (Heideman, Justin) (Entered: 04/04/2017)
04/04/2017	<u>151</u>	RESPONSE to Motion re <u>140</u> MOTION to Compel deposition testimony of Kenneth Birrell and Memorandum in Support filed by Defendants International Automated Systems, Neldon Johnson, LTB1, RaPower-3. (Heideman, Justin) (Entered: 04/04/2017)
04/05/2017	152	<b><u>AMENDED NOTICE OF HEARING ON MOTIONS</u></b> re: <u>143</u> MOTION to Compel Defendants Neldon Johnson, RaPower-3, LLC, International Automated Systems, Inc., and LTB1, LLC to answer certain interrogatories and Memorandum in Support , <u>138</u> MOTION to Compel Todd Anderson to Produce Documents MOTION to Expedite resolution of motion, <u>137</u> SEALED MOTION to Compel Deposition Testimony of Cody Buck, Ken Oveson, and David Mantyla, <u>140</u> MOTION to Compel deposition testimony of Kenneth Birrell and Memorandum in Support : (Notice generated by EJF Chambers) Motion Hearing reset for 4/12/2017 at 02:00 PM in Rm 7.400 before Magistrate Judge Evelyn J. Furse. <b>PLEASE NOTE THE DATE CHANGE. THIS HEARING WILL BE IN PERSON.</b> (lnp) (Entered: 04/05/2017)
04/12/2017	<u>153</u>	RESPONSE to Motion re <u>143</u> MOTION to Compel Defendants Neldon Johnson, RaPower-3, LLC, International Automated Systems, Inc., and LTB1, LLC to answer certain interrogatories and Memorandum in Support filed by Defendants International Automated Systems, Neldon Johnson, LTB1, RaPower-3. (Heideman, Justin) (Entered: 04/12/2017)
04/12/2017	154	Minute Entry for proceedings held before Magistrate Judge Evelyn J. Furse: Motion Hearing held on 4/12/2017 re <u>140</u> MOTION to Compel deposition testimony of Kenneth Birrell and Memorandum in Support filed by USA, <u>143</u> MOTION to Compel Defendants Neldon Johnson, RaPower-3, LLC, International Automated Systems, Inc., and LTB1, LLC to answer certain



		interrogatories and Memorandum in Support filed by USA. Court hears argument from counsel and GRANTS IN PART <u>143</u> MOTION to Compel Defendants Neldon Johnson, RaPower-3, LLC, International Automated Systems, Inc., and LTB1, LLC. Court instructs Defendant to supplement responses within 21 days. Responses due by 5/3/2017. Court instructs Plaintiff's counsel to prepare and submit a proposed order. Court GRANTS IN PART <u>140</u> MOTION to Compel deposition testimony of Kenneth Birrell. Court orders depositions be taken on defendants on limited issue of assertion of right to counsel. The Court instructs the parties to meet and confer further. Court instructs Plaintiff's counsel to prepare and submit a proposed order. Court SEALS the remainder of the hearing from 6:48:09 PM – 8:12:16 PM. Attorney for Plaintiff: Erin Healy Gallagher, Attorney for Defendant: Justin D. Heideman, Christopher Hill, Donald S. Reay. Court Reporter: Electronic.(Time Start: 2:06:22, Time End: 6:48:09, Room 7.400.)(lnp) (Entered: 04/13/2017)
04/21/2017	<u>156</u>	<b>ORDER granting in part and denying in part <u>143</u> Motion to Compel Defendants Neldon Johnson, RaPower-3, LLC, International Automated Systems, Inc., and LTB1, LLC to answer certain interrogatories. Signed by Magistrate Judge Evelyn J. Furse on 4/21/2017. (jwt)</b> (Entered: 04/21/2017)
04/21/2017	<u>157</u>	<del>RESPONSE</del> OBJECTIONS <i>re Proposed Order</i> to <u>140</u> MOTION to Compel deposition testimony of Kenneth Birrell filed by International Automated Systems, Neldon Johnson, LTB1, RaPower-3. (Attachments: # <u>1</u> Text of Proposed Order)(Heideman, Justin) Modified on 4/25/2017: corrected entry text and linked to underlying motion to match actual filing (alt) (Entered: 04/21/2017)
04/21/2017	<u>158</u>	<b>ORDER denying <u>90</u> Motion to Bifurcate; denying <u>94</u> Motion to Bifurcate. Signed by Judge David Nuffer on 4/21/2017. (jds)</b> (Entered: 04/21/2017)
04/24/2017	<u>159</u>	Plaintiff's RESPONSE re <u>157</u> Objection <i>re Proposed Order</i> to <u>140</u> MOTION to Compel deposition testimony of Kenneth Birrell filed by USA. (Attachments: # <u>1</u> Text of Proposed Order re motion to compel deposition testimony of Kenneth Birrell)(Gallagher, Erin) Modified on 4/25/2017: corrected entry text to match actual filing and added link to underlying motion (alt) (Entered: 04/24/2017)
04/24/2017	<u>160</u>	<b>ORDER granting in part <u>140</u> Motion to Compel Deposition Testimony of Kenneth Birrell. Signed by Magistrate Judge Evelyn J. Furse on 4/24/2017. (jds)</b> (Entered: 04/24/2017)
04/24/2017	<u>161</u>	<b>ORDER re <u>138</u> MOTION to Compel Todd Anderson to Produce Documents. The United States motion to compel Mr. Anderson to produce certain documents is DENIED WITHOUT PREJUDICE. Signed by Magistrate Judge Evelyn J. Furse on 4/24/2017. (jds)</b> (Entered: 04/24/2017)
04/25/2017		Modification of Docket re <u>157</u> Response (NOT to motion), <u>159</u> Response (NOT to motion). Error: Document <u>157</u> is not a Response but an <u>Objection</u> to the proposed order related to <u>140</u> Motion.. Correction: Although the type of filing cannot be changed, the entry text will be corrected to show that it is an "Objection" and it will be linked to the underlying <u>140</u> Motion so that it shows on the docket report for that motion. Entry <u>159</u> , which is a Response to the Objection, will have its text corrected and a link created to <u>140</u> Motion so that

		it also appears on the motion report for that motion. (alt) (Entered: 04/25/2017)
05/05/2017	<u>162</u>	RESPONSE re <u>160</u> Order on Motion to Compel, filed by USA. (Attachments: # <u>1</u> Exhibit 1, # <u>2</u> Exhibit 23, # <u>3</u> Exhibit 231, # <u>4</u> Exhibit 283, # <u>5</u> Exhibit 353, # <u>6</u> Exhibit 370, # <u>7</u> Exhibit 411, # <u>8</u> Exhibit 412, # <u>9</u> Exhibit 449, # <u>10</u> Exhibit 450, # <u>11</u> Exhibit 451, # <u>12</u> Exhibit 452)(Gallagher, Erin) (Entered: 05/05/2017)
05/18/2017	<u>163</u>	MOTION to Compel Todd Anderson to produce documents and Memorandum in Support <i>renewed</i> filed by Plaintiff USA. (Attachments: # <u>1</u> Exhibit 1, # <u>2</u> Exhibit 23, # <u>3</u> Exhibit 283, # <u>4</u> Exhibit 353, # <u>5</u> Exhibit 411, # <u>6</u> Exhibit 412, # <u>7</u> Exhibit 449, # <u>8</u> Exhibit 450, # <u>9</u> Exhibit 451, # <u>10</u> Exhibit 452, # <u>11</u> Exhibit 454) Motions referred to Evelyn J. Furse.(Gallagher, Erin) (Entered: 05/18/2017)
05/19/2017	<u>164</u>	MOTION to Withdraw as Attorney and Memorandum in Support filed by Defendants International Automated Systems, Neldon Johnson, LTB1, RaPower-3. (Attachments: # <u>1</u> Exhibit Scheduling Order, # <u>2</u> Text of Proposed Order) Motions referred to Evelyn J. Furse.(Heideman, Justin) (Entered: 05/19/2017)
05/22/2017	<u>165</u>	MOTION for Extension of Time Respond to United States' Renewed Motion to Compel Production of Documents and Memorandum in Support filed by Movant Todd Anderson. (Attachments: # <u>1</u> Text of Proposed Order) Motions referred to Evelyn J. Furse.(Martin, Byron) (Entered: 05/22/2017)
05/22/2017	<u>166</u>	NOTICE of Appearance by Denver C. Snuffer, Jr on behalf of International Automated Systems, Neldon Johnson, LTB1, RaPower-3 (Snuffer, Denver) (Entered: 05/22/2017)
05/22/2017	<u>167</u>	NOTICE of Appearance by Daniel B. Garriott on behalf of International Automated Systems, Neldon Johnson, LTB1, RaPower-3 (Garriott, Daniel) (Entered: 05/22/2017)
05/22/2017	<u>168</u>	<b>ORDER granting <u>164</u> Motion to Withdraw as Attorney. Attorney Justin D. Heideman withdrawn from case for International Automated Systems, Neldon Johnson, LTB1, RaPower-3. Signed by Magistrate Judge Evelyn J. Furse on 5/22/17 (alt)</b> (Entered: 05/22/2017)
05/22/2017	<u>169</u>	NOTICE of Appearance by Steven R. Paul on behalf of International Automated Systems, Neldon Johnson, LTB1, RaPower-3 (Paul, Steven) (Entered: 05/22/2017)
05/22/2017	<u>170</u>	MOTION for Protective Order and Memorandum in Support filed by Plaintiff USA. (Attachments: # <u>1</u> Exhibit 455, # <u>2</u> Exhibit 456, # <u>3</u> Exhibit 457) Motions referred to Evelyn J. Furse.(Gallagher, Erin) (Entered: 05/22/2017)
05/23/2017	171	<b>NOTICE OF HEARING ON MOTION</b> re: <u>170</u> MOTION for Protective Order and Memorandum in Support : (Notice generated by EJF Chambers) Motion Hearing set for 6/15/2017 at 09:00 AM in Rm 8.400 before Magistrate Judge Evelyn J. Furse. <b>OPPOSITION DUE 6/13/2017.</b> (lnp) (Entered: 05/23/2017)
05/23/2017	<u>172</u>	<b>ORDER granting <u>165</u> Motion for Extension of Time. Signed by Magistrate Judge Evelyn J. Furse on 5/23/17 (alt)</b> (Entered: 05/23/2017)

05/26/2017	<u>173</u>	Defendant's MOTION to Strike and Memorandum in Support <i>under Rule 12(f)</i> filed by Defendants International Automated Systems, Neldon Johnson, LTb1, RaPower-3. Motions referred to Evelyn J. Furse.(Snuffer, Denver) (Entered: 05/26/2017)
05/30/2017	174	Motions No Longer Referred: <u>173</u> Defendant's MOTION to Strike and Memorandum in Support <i>under Rule 12(f)</i> (jcw) (Entered: 05/30/2017)
05/30/2017	<u>175</u>	MEMORANDUM in Opposition re <u>163</u> MOTION to Compel Todd Anderson to produce documents and Memorandum in Support <i>renewed</i> filed by Movant Todd Anderson. (Martin, Byron) (Entered: 05/30/2017)
05/31/2017	<u>176</u>	MEMORANDUM in Opposition re <u>163</u> MOTION to Compel Todd Anderson to produce documents and Memorandum in Support <i>renewed</i> filed by Defendants International Automated Systems, Neldon Johnson, LTb1, RaPower-3. (Garriott, Daniel) (Entered: 05/31/2017)
05/31/2017	<u>177</u>	MOTION to Quash Subpoena to IRS and Memorandum in Support filed by Plaintiff USA. (Attachments: # <u>1</u> Exhibit 488 – Notice of Intent to Subpoena and Subpoena Duces Tecum to IRS, # <u>2</u> Exhibit 453 – United States' Objections and Responses to Defendants' First Requests to Plaintiff United States, # <u>3</u> Exhibit 457 – United States' Supplemental Objections and Responses to Defendants' First Discovery Requests to Plaintiff United States, # <u>4</u> Exhibit 189 – Email correspondence produced by a third-party, # <u>5</u> Text of Proposed Order) Motions referred to Evelyn J. Furse.(Hines, Erin) (Entered: 05/31/2017)
06/01/2017	<u>178</u>	MOTION for Extension of Time to Complete Discovery and Memorandum in Support , MOTION to Expedite order on motion to take discovery out of time and Memorandum in Support filed by Plaintiff USA. (Attachments: # <u>1</u> Exhibit 457, # <u>2</u> Exhibit 484, # <u>3</u> Exhibit 485, # <u>4</u> Exhibit 486, # <u>5</u> Exhibit 487) Motions referred to Evelyn J. Furse.(Gallagher, Erin) (Entered: 06/01/2017)
06/01/2017	179	<b><u>NOTICE OF HEARING ON MOTION</u></b> re: <u>177</u> MOTION to Quash Subpoena to IRS and Memorandum in Support : (Notice generated by EJF Chambers) Motion Hearing set for 6/15/2017 at 09:00 AM in Rm 8.400 before Magistrate Judge Evelyn J. Furse. <b>OPPOSITION DUE 6/13/2017.</b> (lnp) (Entered: 06/01/2017)
06/05/2017	<u>180</u>	MEMORANDUM in Opposition re <u>170</u> MOTION for Protective Order and Memorandum in Support filed by Defendants International Automated Systems, Neldon Johnson, LTb1, RaPower-3. (Paul, Steven) (Entered: 06/05/2017)
06/05/2017	181	<b><u>NOTICE OF HEARING ON MOTIONS</u></b> re: <u>178</u> MOTION for Extension of Time to Complete Discovery and Memorandum in Support MOTION to Expedite order on motion to take discovery out of time and Memorandum in Support , <u>163</u> MOTION to Compel Todd Anderson to produce documents and Memorandum in Support <i>renewed</i> : (Notice generated by EJF Chambers) Motion Hearing set for 6/15/2017 at 09:00 AM in Rm 8.400 before Magistrate Judge Evelyn J. Furse. (lnp) (Entered: 06/05/2017)
06/07/2017	<u>182</u>	MOTION to Continue Hearing on United States' Renewed Motion to Compel Todd Anderson to Produce Documents filed by Movant Todd Anderson.

		Motions referred to Evelyn J. Furse.(Martin, Byron) (Entered: 06/07/2017)
06/07/2017	<u>183</u>	MOTION to Continue Hearing on United States' Renewed Motion to Compel Todd Anderson to Produce Documents filed by Movant Todd Anderson. (Attachments: # <u>1</u> Text of Proposed Order Proposed Order) Motions referred to Evelyn J. Furse.(Martin, Byron) (Entered: 06/07/2017)
06/08/2017	<u>184</u>	MEMORANDUM in Opposition re <u>173</u> Defendant's MOTION to Strike and Memorandum in Support <i>under Rule 12(f)</i> filed by Plaintiff USA. (Attachments: # <u>1</u> Exhibit 10, # <u>2</u> Exhibit 504, # <u>3</u> Exhibit 505)(Gallagher, Erin) (Entered: 06/08/2017)
06/08/2017	<u>185</u>	RESPONSE to Motion re <u>183</u> MOTION to Continue Hearing on United States' Renewed Motion to Compel Todd Anderson to Produce Documents filed by Plaintiff USA. (Gallagher, Erin) (Entered: 06/08/2017)
06/08/2017	<u>186</u>	RESPONSE to Motion re <u>173</u> Defendant's MOTION to Strike and Memorandum in Support <i>under Rule 12(f) and Joinder to Motion</i> filed by Defendants Roger Freeborn, R. Gregory Shepard. (Reay, Donald) (Entered: 06/08/2017)
06/08/2017	<u>187</u>	RESPONSE to Motion re <u>173</u> Defendant's MOTION to Strike and Memorandum in Support <i>under Rule 12(f) and Joinder to Motion</i> filed by Defendants Roger Freeborn, R. Gregory Shepard. (Reay, Donald) (Entered: 06/08/2017)
06/08/2017	<u>188</u>	RESPONSE to Motion re <u>173</u> Defendant's MOTION to Strike and Memorandum in Support <i>under Rule 12(f) and Joinder to Motion</i> filed by Defendants Roger Freeborn, R. Gregory Shepard. (Reay, Donald) (Entered: 06/08/2017)
06/08/2017	189	<b>DOCKET TEXT ORDER re <u>183</u> MOTION to Continue Hearing on United States' Renewed Motion to Compel Todd Anderson to Produce Documents filed by Todd Anderson, <u>182</u> MOTION to Continue Hearing on United States' Renewed Motion to Compel Todd Anderson to Produce Documents filed by Todd Anderson. <b>Opposition Due 6/9/17. Signed by Magistrate Judge Evelyn J. Furse on 6/8/17. (brm)</b> (Entered: 06/08/2017)</b>
06/08/2017	<u>190</u>	RESPONSE to Motion re <u>183</u> MOTION to Continue Hearing on United States' Renewed Motion to Compel Todd Anderson to Produce Documents , <u>182</u> MOTION to Continue Hearing on United States' Renewed Motion to Compel Todd Anderson to Produce Documents <i>AND "NON-OPPOSITION" THERETO</i> filed by Defendants International Automated Systems, Neldon Johnson, LTBI, RaPower-3. (Paul, Steven) (Entered: 06/08/2017)
06/09/2017	<u>191</u>	REPLY to Response to Motion re <u>183</u> MOTION to Continue Hearing on United States' Renewed Motion to Compel Todd Anderson to Produce Documents filed by Movant Todd Anderson. (Martin, Byron) (Entered: 06/09/2017)
06/09/2017	192	<b>DOCKET TEXT ORDER granting <u>182</u> Motion to Continue; granting <u>183</u> Motion to Continue. Signed by Magistrate Judge Evelyn J. Furse on 6/9/2017. No attached document. (lnp)</b> (Entered: 06/09/2017)
06/09/2017	193	<b><u>NOTICE OF HEARING ON MOTION</u></b> re: <u>163</u> MOTION to Compel Todd Anderson to produce documents and Memorandum in Support <i>renewed</i> :

		(Notice generated by EJF Chambers) Motion Hearing set for 6/23/2017 at 04:00 PM in Rm 8.400 before Magistrate Judge Evelyn J. Furse. (lnp) (Entered: 06/09/2017)
06/13/2017	<u>194</u>	NOTICE of Withdrawal of Subpoena to IRS by International Automated Systems, Neldon Johnson, LTB1, RaPower-3 re <u>177</u> MOTION to Quash Subpoena to IRS and Memorandum in Support (Paul, Steven) (Entered: 06/13/2017)
06/14/2017		<b>NOTICE VACATING <u>177</u> Motion to Quash hearing</b> set for 6/15/2017 at 9:00 AM before Judge Evelyn J. Furse (Notice generated by EJF Chambers). Motion has been withdrawn. (lnp) (Entered: 06/14/2017)
06/15/2017	195	Minute Entry for proceedings held before Magistrate Judge Evelyn J. Furse: Motion Hearing held on 6/15/2017 re <u>170</u> MOTION for Protective Order and Memorandum in Support filed by USA, <u>178</u> MOTION for Extension of Time to Complete Discovery and Memorandum in Support MOTION to Expedite order on motion to take discovery out of time and Memorandum in Support filed by USA. Court hears argument from counsel and GRANTS <u>170</u> MOTION for Protective Order and GRANTS <u>178</u> MOTION for Extension of Time to Complete Discovery. Counsel makes a stipulated oral motion for extension of time to extend the scheduling order dates. Court GRANTS the oral motion and instructs plaintiff's counsel to prepare and submit a proposed order. Attorney for Plaintiff: Erin Hines, Christopher Moran, Attorney for Defendant: Denver C. Snuffer, Jr., Steven R. Paul, Donald S. Reay. Court Reporter: Electronic.(Time Start: 9:01:46, Time End: 10:02:11, Room 8.400.)(lnp) (Entered: 06/15/2017)
06/16/2017	<u>196</u>	<b>ORDER granting <u>170</u> Motion for Protective Order: Defendants shall not depose any representative of the USDOJ Tax Division. Signed by Magistrate Judge Evelyn J. Furse on 6/15/17 (alt)</b> (Entered: 06/16/2017)
06/16/2017	<u>197</u>	<b>ORDER granting <u>178</u> Motion for Extension of Time to Take Certain Discovery Out of Time. Signed by Magistrate Judge Evelyn J. Furse on 6/15/17 (alt)</b> (Entered: 06/16/2017)
06/23/2017	<u>198</u>	REPLY to Response to Motion re <u>173</u> Defendant's MOTION to Strike and Memorandum in Support <i>under Rule 12(f)</i> filed by Defendants International Automated Systems, Neldon Johnson, LTB1, RaPower-3. (Garriott, Daniel) (Entered: 06/23/2017)
06/23/2017	<u>199</u>	REPLY to Response to Motion re <u>173</u> Defendant's MOTION to Strike and Memorandum in Support <i>under Rule 12(f)</i> JOINDER filed by Defendants Roger Freeborn, R. Gregory Shepard. (Reay, Donald) (Entered: 06/23/2017)
06/23/2017	200	Minute Order. Proceedings held before Magistrate Judge Evelyn J. Furse: Motion Hearing held on 6/23/2017 re <u>163</u> MOTION to Compel Todd Anderson to produce documents and Memorandum in Support <i>renewed</i> filed by USA. Court hears argument from counsel and GRANTS <u>163</u> and GRANTS <u>140</u> MOTION to Compel Todd Anderson to produce documents and GRANTS MOTION to Compel deposition testimony of Kenneth Birrell. Court instructs counsel to prepare and submit proposed orders. Attorney for Plaintiff: Erin Healy Gallagher, Attorney for Defendant Steven R. Paul. Attorney for Movant: Byron Martin for Movant Todd Anderson. Attorney for Movant: Christopher S. Hill for Movant Kenneth Birrell. Court Reporter:

		Electronic.(Time Start: 4:04:05, Time End: 4:25:19, Room 8.400.) (Inp) (Entered: 06/23/2017)
06/26/2017	<u>201</u>	REQUEST to Submit for Decision re <u>173</u> Defendant's MOTION to Strike and Memorandum in Support <i>under Rule 12(f)</i> filed by Defendants International Automated Systems, Neldon Johnson, LTB1, RaPower-3. (Paul, Steven) (Entered: 06/26/2017)
06/27/2017	<u>202</u>	<b>MEMORANDUM DECISION AND ORDER denying <u>173</u> 12(f) Motion to Strike. Signed by Judge David Nuffer on 6/27/17 (alt)</b> (Entered: 06/27/2017)
06/29/2017	<u>203</u>	<b>ORDER granting <u>140</u> Motion to Compel Deposition Testimony of Kenneth Birrell. Signed by Magistrate Judge Evelyn J. Furse on 6/29/17 (alt)</b> (Entered: 06/29/2017)
07/03/2017	<u>204</u>	OBJECTIONS to <i>United States' Proposed Order</i> to <u>163</u> MOTION to Compel Todd Anderson to produce documents and Memorandum in Support <i>renewed to United States' Proposed Order</i> filed by Todd Anderson. (Attachments: # <u>1</u> Text of Proposed Order, # <u>2</u> Text of Proposed Order)(Martin, Byron) (Entered: 07/03/2017)
07/06/2017	<u>205</u>	<b>AMENDED SCHEDULING ORDER following 6/15/2017 hearing: Discovery due by 11/3/2017. Motions due by 11/17/2017. Final Pretrial Conference set for 4/2/2018 at 02:30 PM in Rm 3.100 before Judge David Nuffer. 10 Day Bench Trial set for 4/16/2018 at 08:00 AM in Rm 3.100 before Judge David Nuffer. Signed by Magistrate Judge Evelyn J. Furse on 7/6/2017. (jds)</b> (Entered: 07/06/2017)
07/06/2017	<u>206</u>	<b>ORDER granting <u>163</u> Motion to Compel Todd Anderson to Produce Certain Documents. Signed by Magistrate Judge Evelyn J. Furse on 7/6/17 (alt)</b> (Entered: 07/06/2017)
07/07/2017	<u>207</u>	NOTICE of Todd Anderson's Response to Subpeona for Records by International Automated Systems, Neldon Johnson, LTB1, RaPower-3 re <u>206</u> Order on Motion to Compel (Paul, Steven) (Entered: 07/07/2017)
07/18/2017	<u>208</u>	REQUEST to Submit for Decision re <u>136</u> Notice of Conventional Filing filed by Plaintiff USA. (Moran, Christopher) (Entered: 07/18/2017)
07/21/2017	<u>209</u>	<b>ORDER <del>SEALED</del> granting <u>137</u> Sealed Motion to compel deposition testimony of Certified Public Accountants (CPAs) Cody Buck, Ken Oveson, and David Mantyla. Signed by Magistrate Judge Evelyn J. Furse on 7/19/2017. (Attachments: # <u>1</u> Mailing Certificate) (jds) Modified on 10/20/2017; Unsealed per <u>233</u> Order (jds).</b> (Entered: 07/21/2017)
08/17/2017	<u>210</u>	MOTION to Compel production of documents and Memorandum in Support , MOTION to Expedite and Memorandum in Support filed by Plaintiff USA. (Attachments: # <u>1</u> Exhibit 568, # <u>2</u> Exhibit 569, # <u>3</u> Exhibit 570, # <u>4</u> Exhibit 571, # <u>5</u> Exhibit 572, # <u>6</u> Exhibit 573 (excerpts), # <u>7</u> Exhibit 574 (excerpts), # <u>8</u> Exhibit 575 (excerpts), # <u>9</u> Exhibit 576 (excerpts), # <u>10</u> Exhibit 577) Motions referred to Evelyn J. Furse.(Gallagher, Erin) (Entered: 08/17/2017)
08/17/2017	<u>211</u>	MOTION to Withdraw as Attorney and Memorandum in Support <i>for Defendants Freeborn and Shepard</i> filed by Defendants Roger Freeborn, R. Gregory Shepard. (Attachments: # <u>1</u> Text of Proposed Order on Motion to Withdraw) Motions referred to Evelyn J. Furse.(Reay, Donald) (Entered: 08/17/2017)

		08/17/2017)
08/18/2017	212	<b>NOTICE OF HEARING ON MOTION</b> re: <u>210</u> MOTION to Compel production of documents and Memorandum in Support MOTION to Expedite and Memorandum in Support : (Notice generated by EJF Chambers) Motion Hearing set for 8/25/2017 at 10:30 AM in Rm 7.400 before Magistrate Judge Evelyn J. Furse. (Inp) (Entered: 08/18/2017)
08/21/2017	<u>213</u>	MOTION for Extension of Time to Complete Discovery and Memorandum in Support , MOTION to Expedite order on motion to depose Jessica Anderson out of time and Memorandum in Support filed by Plaintiff USA. (Attachments: # <u>1</u> Exhibit 23, # <u>2</u> Exhibit 480, # <u>3</u> Exhibit 570, # <u>4</u> Exhibit 571, # <u>5</u> Exhibit 572, # <u>6</u> Exhibit 574, # <u>7</u> Exhibit 575, # <u>8</u> Exhibit 576, # <u>9</u> Exhibit 578, # <u>10</u> Exhibit 579, # <u>11</u> Exhibit 580, # <u>12</u> Exhibit 581, # <u>13</u> Exhibit 582) Motions referred to Evelyn J. Furse.(Gallagher, Erin) (Entered: 08/21/2017)
08/22/2017	214	<b>AMENDED NOTICE OF HEARING ON MOTIONS</b> re: <u>210</u> MOTION to Compel production of documents and Memorandum in Support MOTION to Expedite and Memorandum in Support , <u>213</u> MOTION for Extension of Time to Complete Discovery and Memorandum in Support MOTION to Expedite order on motion to depose Jessica Anderson out of time and Memorandum in Support , <u>211</u> MOTION to Withdraw as Attorney and Memorandum in Support <i>for Defendants Freeborn and Shepard</i> : (Notice generated by EJF Chambers) Motion Hearing set for 8/29/2017 at 02:00 PM in Rm 7.400 before Magistrate Judge Evelyn J. Furse. <b>PLEASE NOTE THE DATE AND TIME CHANGE AND THE ADDITION OF MOTIONS <u>211</u> AND <u>213</u> . (Inp) (Entered: 08/22/2017)</b>
08/24/2017		<b>NOTICE VACATING HEARING ON MOTION</b> RE: <u>211</u> MOTION to Withdraw as Attorney and Memorandum in Support for Defendants Freeborn and Shepard set for 8/29/2017 at 2:00 PM before Judge Evelyn J. Furse (Notice generated by EJF Chambers) (Inp) (Entered: 08/24/2017)
08/25/2017	<u>215</u>	MEMORANDUM in Opposition re <u>213</u> MOTION for Extension of Time to Complete Discovery and Memorandum in Support MOTION to Expedite order on motion to depose Jessica Anderson out of time and Memorandum in Support filed by Defendants International Automated Systems, Neldon Johnson, LTB1, RaPower-3. (Attachments: # <u>1</u> Exhibit Anderson Letter)(Paul, Steven) (Entered: 08/25/2017)
08/29/2017	217	Minute Entry for proceedings held before Magistrate Judge Evelyn J. Furse: Motion Hearing held on 8/29/2017 re <u>210</u> MOTION to Compel production of documents and Memorandum in Support MOTION to Expedite and Memorandum in Support filed by USA, <u>213</u> MOTION for Extension of Time to Complete Discovery and Memorandum in Support MOTION to Expedite order on motion to depose Jessica Anderson out of time and Memorandum in Support filed by USA. Court hears argument from counsel and GRANTS <u>210</u> MOTION to Compel production of documents and GRANTS <u>213</u> MOTION for Extension of Time to Complete Discovery. Court instructs Government counsel to prepare and submit proposed orders for the two motions. Attorney for Plaintiff: Erin Healy Gallagher, Christopher Moran, Attorney for Defendant: Steven R. Paul. Court Reporter: Electronic.(Time Start: 2:05:44, Time End: 3:55:16, Room 7.400.)(Inp) (Entered: 08/31/2017)

08/30/2017	<u>216</u>		ORDER granting <u>211</u> Motion to Withdraw as Attorney. Attorney Donald S. Reay withdrawn from case for R. Gregory Shepard and Roger Freeborn. Signed by Magistrate Judge Evelyn J. Furse on 8/29/17 (alt) (Entered: 08/30/2017)
09/13/2017	<u>218</u>		ORDER granting <u>210</u> Motion to Compel Production of Documents. Signed by Magistrate Judge Evelyn J. Furse on 9/12/17 (alt) (Entered: 09/13/2017)
09/13/2017	<u>219</u>		ORDER granting <u>213</u> Motion for Extension of Time to Complete Discovery/Depose Jessica Anderson Out of Time. Signed by Magistrate Judge Evelyn J. Furse on 9/12/17 (alt) (Entered: 09/13/2017)
09/15/2017	<u>220</u>		DESIGNATION OF EXPERTS Kurt O. Hawes, JD, MBA <i>and Certificate of Service of Expert Report of Kurt O. Hawes</i> filed by Defendants International Automated Systems, Neldon Johnson, LTB1, RaPower-3.(Paul, Steven) (Entered: 09/15/2017)
09/15/2017	<u>221</u>		DESIGNATION OF EXPERTS Neldon P. Johnson <i>and Certificate of Service of Expert Report of Neldon P. Johnson</i> filed by Defendants International Automated Systems, Neldon Johnson, LTB1, RaPower-3.(Paul, Steven) (Entered: 09/15/2017)
09/27/2017	<u>222</u>		NOTICE of Appearance by Steven R. Paul on behalf of Roger Freeborn, R. Gregory Shepard (Paul, Steven) (Entered: 09/27/2017)
09/27/2017	<u>223</u>		NOTICE of Appearance by Daniel B. Garriott on behalf of Roger Freeborn, R. Gregory Shepard (Garriott, Daniel) (Entered: 09/27/2017)
09/27/2017	<u>224</u>		NOTICE of Appearance by Denver C. Snuffer, Jr on behalf of Roger Freeborn, R. Gregory Shepard (Snuffer, Denver) (Entered: 09/27/2017)
09/28/2017	<u>225</u>		DESIGNATION OF EXPERTS Richard Jameson <i>and Certificate of Service of Expert Report</i> filed by Defendants Roger Freeborn, R. Gregory Shepard.(Paul, Steven) (Entered: 09/28/2017)
10/11/2017	<u>226</u>		MOTION for Sanctions and Memorandum in Support , MOTION to Expedite order on motion for sanctions and Memorandum in Support filed by Plaintiff USA. Motions referred to Evelyn J. Furse.(Gallagher, Erin) (Entered: 10/11/2017)
10/11/2017	227		<b><u>NOTICE OF HEARING ON MOTION</u></b> re: <u>226</u> MOTION for Sanctions and Memorandum in Support MOTION to Expedite order on motion for sanctions and Memorandum in Support : (Notice generated by EJF Chambers) Motion Hearing set for 10/23/2017 at 03:30 PM in Rm 7.100 before Magistrate Judge Evelyn J. Furse. (lnp) (Entered: 10/11/2017)
10/12/2017	<u>228</u>		MOTION to Unseal Document <u>137</u> SEALED MOTION to Compel Deposition Testimony of Cody Buck, Ken Oveson, and David Mantyla filed by USA and Memorandum in Support <i>and Doc. No. 209 (Court's Order)</i> filed by Plaintiff USA. (Attachments: # <u>1</u> Exhibit Pl. Ex. 660, Letter of 8/16/2017 to Defendants' counsel, # <u>2</u> Exhibit Pl. Ex. 661, Letter of 9/7/2017 to Eric Benson, # <u>3</u> Exhibit Pl. Ex. 662, Letter of 9/15/2017 from Eric Benson, to counsel for the United States, # <u>4</u> Exhibit PL. Ex. 663, Email Correspondence between Eric Benson and Christopher Moran) Motions referred to Evelyn J. Furse.(Moran, Christopher) (Entered: 10/12/2017)



10/18/2017	<u>229</u>		MOTION for Extension of Time to Complete Discovery and Memorandum in Support filed by Plaintiff USA. (Attachments: # <u>1</u> Exhibit 664, # <u>2</u> Exhibit 665, # <u>3</u> Exhibit 666, # <u>4</u> Exhibit 667) Motions referred to Evelyn J. Furse.(Gallagher, Erin) (Entered: 10/18/2017)
10/19/2017	230		<b>DOCKET TEXT ORDER Any opposition to United States' Motion to Depose Richard Jameson Out of Time <u>229</u> shall be filed by 9:00am Monday, October 23, 2017. No attached document. Signed by Magistrate Judge Evelyn J. Furse on 10/19/2017. (nas)</b> (Entered: 10/19/2017)
10/20/2017	<u>231</u>		RESPONSE to Motion re <u>226</u> MOTION for Sanctions and Memorandum in Support MOTION to Expedite order on motion for sanctions and Memorandum in Support filed by Defendants Roger Freeborn, International Automated Systems, Neldon Johnson, LTB1, RaPower-3, R. Gregory Shepard. (Paul, Steven) (Entered: 10/20/2017)
10/20/2017	<u>232</u>		MEMORANDUM in Opposition re <u>229</u> MOTION for Extension of Time to Complete Discovery and Memorandum in Support filed by Defendants Roger Freeborn, International Automated Systems, Neldon Johnson, LTB1, RaPower-3, R. Gregory Shepard. (Attachments: # <u>1</u> Exhibit Cover Page of Jameson Deposition, # <u>2</u> Exhibit Excerpt from Jameson Expert Report, # <u>3</u> Exhibit Jameson Deposition Word Index Excerpt)(Paul, Steven) (Entered: 10/20/2017)
10/20/2017	<u>233</u>		<b>ORDER granting <u>228</u> Motion to Unseal Document <u>209</u> Order on Sealed Motion and <u>137</u> SEALED MOTION to Compel Deposition Testimony of Cody Buck, Ken Oveson, and David Mantyla. Signed by Magistrate Judge Evelyn J. Furse on 10/20/2017. (jds)</b> (Entered: 10/20/2017)
10/20/2017			NOTICE of Unsealing Documents <u>137</u> Motion to Compel and <u>209</u> Order granting the Motion to Compel per <u>233</u> ORDER. (jds) (Entered: 10/20/2017)
10/23/2017	234		Minute Order. Proceedings held before Magistrate Judge Evelyn J. Furse: Motion Hearing held on 10/23/2017 re <u>226</u> MOTION for Sanctions and Memorandum in Support MOTION to Expedite order on motion for sanctions and Memorandum in Support filed by USA, <u>229</u> MOTION for Extension of Time to Complete Discovery and Memorandum in Support filed by USA. Court hears argument from counsel. Plaintiff's counsel submits exhibits. Court seals a portion of the exhibits presented. After hearing argument from counsel, the Court TAKES UNDER ADVISEMENT <u>226</u> Motion for Sanctions/ <u>226</u> Motion to Expedite and also TAKES UNDER ADVISEMENT <u>229</u> Motion for Extension of Time to Complete Discovery. Court to issue written orders. Attorney for Plaintiff: Erin Healy Gallagher, Attorney for Defendant Steven R. Paul. Court Reporter: Electronic.(Time Start: 3:37:15, Time End: 5:10:59, Room 7.100.) (Inp) (Entered: 10/23/2017)
10/25/2017	<u>235</u>		<b>ORDER GRANTING <u>226</u> Expedited Motion for Sanctions. Signed by Magistrate Judge Evelyn J. Furse on 10/25/2017. (nas)</b> (Entered: 10/25/2017)
10/25/2017	<u>236</u>		<b>ORDER GRANTING <u>229</u> Motion to Depose Richard Jameson Out of Time. Signed by Magistrate Judge Evelyn J. Furse on 10/25/2017. (nas)</b> (Entered: 10/25/2017)
10/26/2017			Modification of Docket re <u>209</u> Order on Sealed Motion. Correction: Document has been unsealed per <u>233</u> Order. (alt) (Entered: 10/26/2017)

11/01/2017	<u>237</u>	CERTIFICATE OF SERVICE by Roger Freeborn, International Automated Systems, Neldon Johnson, LTB1, RaPower-3, R. Gregory Shepard re <u>235</u> Order on Motion for Sanctions, Order on Motion to Expedite (Paul, Steven) (Entered: 11/01/2017)
11/01/2017	<u>238</u>	OBJECTION TO MAGISTRATE JUDGE DECISION to District Court by International Automated Systems, Neldon Johnson, LTB1, RaPower-3 re <u>235</u> Order on Motion for Sanctions, Order on Motion to Expedite (Paul, Steven) (Entered: 11/01/2017)
11/01/2017	<u>239</u>	MOTION to Stay re <u>235</u> Order on Motion for Sanctions, Order on Motion to Expedite and Memorandum in Support filed by Defendants International Automated Systems, Neldon Johnson, LTB1, RaPower-3. Motions referred to Evelyn J. Furse.(Paul, Steven) (Entered: 11/01/2017)
11/01/2017	<u>240</u>	AFFIDAVIT/DECLARATION of Neldon Johnson in Support re <u>239</u> MOTION to Stay re <u>235</u> Order on Motion for Sanctions, Order on Motion to Expedite and Memorandum in Support filed by Defendants International Automated Systems, Neldon Johnson, LTB1, RaPower-3. (Attachments: # <u>1</u> Exhibit Email Threat of Lawsuit)(Paul, Steven) (Entered: 11/01/2017)
11/02/2017	241	<b>DOCKET TEXT ORDER GRANTING <u>239</u> Motion to Stay. Enforcement of the Order Granting Plaintiff's Expedited Motion for Sanctions <u>235</u> is stayed pending review of Defendants' Objection to the Order <u>238</u> by Judge Nuffer. Signed by Magistrate Judge Evelyn J. Furse on 11/2/2017. (nas)</b> (Entered: 11/02/2017)
11/02/2017	<u>242</u>	<b>**SEALED EXHIBITS**</b> re 234 Motion Hearing held on 10/23/2017 re <u>226</u> MOTION for Sanctions. (Attachments: # <u>1</u> Plaintiff's Exhibit 613 , # <u>2</u> Plaintiff's Exhibits 668 , # <u>3</u> Plaintiff's Exhibits 669 )(lnp) (Entered: 11/02/2017)
11/02/2017	<u>243</u>	EXHIBIT 181 filed by USA re 234 Motion Hearing held on 10/23/2017 re <u>226</u> MOTION for Sanctions.(lnp) (Entered: 11/02/2017)
11/02/2017	<u>244</u>	EXHIBIT 659 filed by USA re <u>242</u> Sealed Document and 234 Motion Hearing held on 10/23/2017 re <u>226</u> MOTION for Sanctions.(lnp) (Entered: 11/02/2017)
11/02/2017	<u>245</u>	EXHIBIT 668 filed by USA re <u>242</u> Sealed Document and 234 Motion Hearing held on 10/23/2017 re <u>226</u> MOTION for Sanctions. (lnp) (Entered: 11/02/2017)
11/02/2017	<u>246</u>	EXHIBIT 669 filed by USA re <u>242</u> Sealed Document and 234 Motion Hearing held on 10/23/2017 re <u>226</u> MOTION for Sanctions. (lnp) (Entered: 11/02/2017)
11/14/2017	<u>247</u>	NOTICE OF FILING OF OFFICIAL TRANSCRIPT of Hearing for Sanctions and Extension of Time to Complete Discovery held on October 23, 2017 before Judge Evelyn J. Furse. Court Reporter/Transcriber Karen Murakami, Telephone number 801-328-4800.  <b>NOTICE RE REDACTION OF TRANSCRIPTS: Within 7 business days of this filing, each party shall inform the Court, by filing a Notice of Intent to Redact, of the parties intent to redact <u>personal data identifiers</u> from the electronic transcript of the court proceeding. To redact additional</b>

		<p><b>information a Motion to Redact must be filed. The policy and forms are located on the court's website at <a href="http://www.utd.uscourts.gov">www.utd.uscourts.gov</a>. Please read this policy carefully. If no Notice of Intent to Redact is filed within the allotted time, this transcript will be made electronically available on the date set forth below.</b></p> <p>Transcript may be viewed at the court public terminal or purchased through the Court Reporter/Transcriber before the deadline for Release of Transcript Restriction. After that date it may be obtained through PACER. Redaction Request due 12/5/2017. Redacted Transcript Deadline set for 12/15/2017. Release of Transcript Restriction set for 2/12/2018. (las) Modified on 2/12/2018 by removing restricted text (las). (Entered: 11/14/2017)</p>
11/17/2017	<u>249</u>	<p>MOTION in Limine and Memorandum in Support to Exclude "Expert" Testimony of Kurt Hawes and Richard Jameson filed by Plaintiff USA. (Attachments: # <u>1</u> Exhibit Pl. Ex. 1, # <u>2</u> Exhibit Pl. Ex. 20, # <u>3</u> Exhibit Pl. Ex. 24, # <u>4</u> Exhibit Pl. Ex. 25, # <u>5</u> Exhibit Pl. Ex. 40, # <u>6</u> Exhibit Pl. Ex. 78, # <u>7</u> Exhibit Pl. Ex. 112, # <u>8</u> Exhibit Pl. Ex. 163, # <u>9</u> Exhibit Pl. Ex. 214, # <u>10</u> Exhibit Pl. Ex. 216, # <u>11</u> Exhibit Pl. Ex. 244, # <u>12</u> Exhibit Pl. Ex. 282, # <u>13</u> Exhibit Pl. Ex. 492, # <u>14</u> Exhibit Pl. Ex. 518, # <u>15</u> Exhibit Pl. Ex. 520, # <u>16</u> Exhibit Pl. Ex. 625, # <u>17</u> Exhibit Pl. Ex. 631, # <u>18</u> Exhibit Pl. Ex. 632, # <u>19</u> Exhibit Pl. Ex. 637, # <u>20</u> Exhibit Pl. Ex. 638, # <u>21</u> Exhibit Pl. Ex. 639, # <u>22</u> Exhibit Pl. Ex. 640, # <u>23</u> Exhibit Pl. Ex. 641, # <u>24</u> Exhibit Pl. Ex. 651 (Part 1), Kurt Hawes' Expert Report, # <u>25</u> Exhibit Pl. Ex. 651 (Part 2), Kurt Hawes' Expert Report, # <u>26</u> Exhibit Pl. Ex. 659, Richard Jameson's Expert Report, # <u>27</u> Exhibit Pl. Ex. 666, Deposition of Richard Jameson, # <u>28</u> Exhibit Pl. Ex. 670, # <u>29</u> Exhibit Pl. Ex. 671, # <u>30</u> Exhibit Pl. Ex. 672, Deposition of Kurt Hawes, # <u>31</u> Exhibit Pl. Ex. 673, Deposition of LTB1, LLC, # <u>32</u> Exhibit Pl. Ex. 674, # <u>33</u> Text of Proposed Order)(Moran, Christopher) (Entered: 11/17/2017)</p>
11/17/2017	<u>250</u>	<p>MOTION in Limine and Memorandum in Support to Exclude "Expert" Testimony of Neldon Johnson filed by Plaintiff USA. (Attachments: # <u>1</u> Exhibit Pl. Ex. 1, # <u>2</u> Exhibit Pl. Ex. 24, # <u>3</u> Exhibit Pl. Ex. 25, # <u>4</u> Exhibit Pl. Ex. 40, # <u>5</u> Exhibit Pl. Ex. 214, # <u>6</u> Exhibit Pl. Ex. 216, # <u>7</u> Exhibit Pl. Ex. 492, # <u>8</u> Exhibit Pl. Ex. 507, # <u>9</u> Exhibit Pl. Ex. 520, # <u>10</u> Exhibit Pl. Ex. 579, Deposition of Neldon Johnson, volume 1, # <u>11</u> Exhibit Pl. Ex. 643, Neldon Johnson's Expert Report, # <u>12</u> Exhibit Pl. Ex. 646, # <u>13</u> Exhibit Pl. Ex. 647, # <u>14</u> Exhibit Pl. Ex. 648, # <u>15</u> Exhibit Pl. Ex. 649, # <u>16</u> Exhibit Pl. Ex. 650, # <u>17</u> Exhibit Pl. Ex. 673, # <u>18</u> Exhibit Pl. Ex. 674, # <u>19</u> Exhibit Pl. Ex. 681, Deposition of Neldon Johnson, volume 2, # <u>20</u> Text of Proposed Order)(Hines, Erin) (Entered: 11/17/2017)</p>
11/17/2017	<u>251</u>	<p>MOTION for Partial Summary Judgment and Memorandum in Support filed by Plaintiff USA. (Attachments: # <u>1</u> Text of Proposed Order)(Gallagher, Erin) Modified on 11/20/2017: corrected motion relief (alt) (Entered: 11/17/2017)</p>
11/17/2017	<u>252</u>	<p>MOTION to Appoint Receiver and Memorandum in Support to Freeze Assets of Defendants Neldon Johnson, RaPower-3, and International Automated Systems filed by Plaintiff USA. (Attachments: # <u>1</u> Exhibit Pl. Ex. 1, # <u>2</u> Exhibit Pl. Ex. 2, # <u>3</u> Exhibit Pl. Ex. 24, # <u>4</u> Exhibit Pl. Ex. 25, # <u>5</u> Exhibit Pl. Ex. 32, # <u>6</u> Exhibit Pl. Ex. 40, # <u>7</u> Exhibit Pl. Ex. 93, # <u>8</u> Exhibit Pl. Ex. 125, # <u>9</u> Exhibit Pl. Ex. 214, # <u>10</u> Exhibit Pl. Ex. 216, # <u>11</u> Exhibit Pl. Ex. 246, # <u>12</u></p>

		Exhibit Pl. Ex. 279, # <u>13</u> Exhibit Pl. Ex. 294, # <u>14</u> Exhibit Pl. Ex. 492, # <u>15</u> Exhibit Pl. Ex. 496, # <u>16</u> Exhibit Pl. Ex. 511, # <u>17</u> Exhibit Pl. Ex. 520, # <u>18</u> Exhibit Pl. Ex. 531, # <u>19</u> Exhibit Pl. Ex. 532, # <u>20</u> Exhibit Pl. Ex. 579, # <u>21</u> Exhibit Pl. Ex. 581, # <u>22</u> Exhibit Pl. Ex. 646, # <u>23</u> Exhibit Pl. Ex. 647, # <u>24</u> Exhibit Pl. Ex. 648, # <u>25</u> Exhibit Pl. Ex. 649, # <u>26</u> Exhibit Pl. Ex. 650, # <u>27</u> Exhibit Pl. Ex. 666, # <u>28</u> Exhibit Pl. Ex. 673, # <u>29</u> Exhibit Pl. Ex. 674, # <u>30</u> Exhibit Pl. Ex. 677, # <u>31</u> Exhibit Pl. Ex. 681, # <u>32</u> Exhibit Pl. Ex. 682, # <u>33</u> Exhibit Pl. Ex. 683, # <u>34</u> Exhibit Pl. Ex. 684, # <u>35</u> Text of Proposed Order) Motions referred to Evelyn J. Furse.(Hines, Erin) Modified on 11/20/2017: corrected text (alt) (Entered: 11/17/2017)
11/17/2017	<u>253</u>	Defendant's MOTION in Limine and Memorandum in Support to <i>Strike Expert Report and Exclude Testimony of Thomas Mancini</i> filed by Defendants International Automated Systems, Neldon Johnson, RaPower-3. (Attachments: # <u>1</u> Exhibit Expert Report of Thomas Mancini, # <u>2</u> Exhibit Deposition of Thomas Mancini)(Snuffer, Denver) Modified on 11/20/2017: corrected text (alt) (Entered: 11/17/2017)
11/17/2017	<u>254</u>	APPENDIX to <u>251</u> MOTION for Summary Judgment and Memorandum in Support <i>partial</i> filed by Plaintiff USA <i>vol. 1</i> . (Attachments: # <u>1</u> Exhibit 1, # <u>2</u> Exhibit 2, # <u>3</u> Exhibit 8A, # <u>4</u> Exhibit 16, # <u>5</u> Exhibit 17, # <u>6</u> Exhibit 19, # <u>7</u> Exhibit 20, # <u>8</u> Exhibit 24, # <u>9</u> Exhibit 25, # <u>10</u> Exhibit 32, # <u>11</u> Exhibit 34, # <u>12</u> Exhibit 40, # <u>13</u> Exhibit 43, # <u>14</u> Exhibit 48, # <u>15</u> Exhibit 49, # <u>16</u> Exhibit 54, # <u>17</u> Exhibit 61, # <u>18</u> Exhibit 70, # <u>19</u> Exhibit 72, # <u>20</u> Exhibit 77, # <u>21</u> Exhibit 80, # <u>22</u> Exhibit 85, # <u>23</u> Exhibit 88, # <u>24</u> Exhibit 91, # <u>25</u> Exhibit 93, # <u>26</u> Exhibit 94, # <u>27</u> Exhibit 95, # <u>28</u> Exhibit 109, # <u>29</u> Exhibit 112, # <u>30</u> Exhibit 114, # <u>31</u> Exhibit 119, # <u>32</u> Exhibit 121, # <u>33</u> Exhibit 125, # <u>34</u> Exhibit 141, # <u>35</u> Exhibit 157, # <u>36</u> Exhibit 158, # <u>37</u> Exhibit 159, # <u>38</u> Exhibit 174, # <u>39</u> Exhibit 181, # <u>40</u> Exhibit 185, # <u>41</u> Exhibit 186, # <u>42</u> Exhibit 188, # <u>43</u> Exhibit 189, # <u>44</u> Exhibit 204, # <u>45</u> Exhibit 207, # <u>46</u> Exhibit 213, # <u>47</u> Exhibit 214, # <u>48</u> Exhibit 216, # <u>49</u> Exhibit 217, # <u>50</u> Exhibit 218)(Gallagher, Erin) (Entered: 11/17/2017)
11/17/2017	<u>255</u>	APPENDIX to <u>251</u> MOTION for Summary Judgment and Memorandum in Support <i>partial</i> filed by Plaintiff USA <i>vol. 2</i> . (Attachments: # <u>1</u> Exhibit 220, # <u>2</u> Exhibit 237, # <u>3</u> Exhibit 246, # <u>4</u> Exhibit 249, # <u>5</u> Exhibit 260, # <u>6</u> Exhibit 267, # <u>7</u> Exhibit 270, # <u>8</u> Exhibit 279, # <u>9</u> Exhibit 282, # <u>10</u> Exhibit 292, # <u>11</u> Exhibit 294, # <u>12</u> Exhibit 297, # <u>13</u> Exhibit 323, # <u>14</u> Exhibit 340, # <u>15</u> Exhibit 341, # <u>16</u> Exhibit 348, # <u>17</u> Exhibit 352, # <u>18</u> Exhibit 383, # <u>19</u> Exhibit 412, # <u>20</u> Exhibit 419, # <u>21</u> Exhibit 420, # <u>22</u> Exhibit 424, # <u>23</u> Exhibit 425, # <u>24</u> Exhibit 426, # <u>25</u> Exhibit 439, # <u>26</u> Exhibit 441, # <u>27</u> Exhibit 459, # <u>28</u> Exhibit 460, # <u>29</u> Exhibit 462, # <u>30</u> Exhibit 463, # <u>31</u> Exhibit 464, # <u>32</u> Exhibit 465, # <u>33</u> Exhibit 468, # <u>34</u> Exhibit 469, # <u>35</u> Exhibit 470, # <u>36</u> Exhibit 471, # <u>37</u> Exhibit 473, # <u>38</u> Exhibit 474, # <u>39</u> Exhibit 481, # <u>40</u> Exhibit 490, # <u>41</u> Exhibit 491, # <u>42</u> Exhibit 492, # <u>43</u> Exhibit 493, # <u>44</u> Exhibit 496, # <u>45</u> Exhibit 497, # <u>46</u> Exhibit 498, # <u>47</u> Exhibit 499, # <u>48</u> Exhibit 500, # <u>49</u> Exhibit 501, # <u>50</u> Exhibit 502)(Gallagher, Erin) (Entered: 11/17/2017)
11/17/2017	<u>256</u>	APPENDIX to <u>251</u> MOTION for Summary Judgment and Memorandum in Support <i>partial</i> filed by Plaintiff USA <i>vol. 3</i> . (Attachments: # <u>1</u> Exhibit 503, # <u>2</u> Exhibit 504, # <u>3</u> Exhibit 509, # <u>4</u> Exhibit 511, # <u>5</u> Exhibit 512, # <u>6</u> Exhibit 520, # <u>7</u> Exhibit 531, # <u>8</u> Exhibit 532, # <u>9</u> Exhibit 533, # <u>10</u> Exhibit 535, # <u>11</u>

		Exhibit 539, # <u>12</u> Exhibit 557, # <u>13</u> Exhibit 558, # <u>14</u> Exhibit 579, # <u>15</u> Exhibit 581, # <u>16</u> Exhibit 666, # <u>17</u> Exhibit 673, # <u>18</u> Exhibit 674, # <u>19</u> Exhibit 676, # <u>20</u> Exhibit 677, # <u>21</u> Exhibit 678, # <u>22</u> Exhibit 679, # <u>23</u> Exhibit 680, # <u>24</u> Exhibit 681, # <u>25</u> Exhibit 682, # <u>26</u> Exhibit 683, # <u>27</u> Exhibit 685, # <u>28</u> Exhibit 686, # <u>29</u> Exhibit 687, # <u>30</u> Exhibit 688, # <u>31</u> Exhibit 689, # <u>32</u> Exhibit 690, # <u>33</u> Exhibit 693, # <u>34</u> Exhibit 694, # <u>35</u> Exhibit 695, # <u>36</u> Exhibit 696, # <u>37</u> Exhibit 697)(Gallagher, Erin) (Entered: 11/17/2017)
11/17/2017	<u>257</u>	Defendant's MOTION to Dismiss and Memorandum in Support filed by Defendants International Automated Systems, Neldon Johnson, RaPower-3. (Attachments: # <u>1</u> Affidavit Declaration of Paul W. Jones (With Exhibits))(Snuffer, Denver) (Entered: 11/17/2017)
11/20/2017	258	Motions No Longer Referred: <u>252</u> MOTION to Appoint Receiver and Memorandum in Support <i>To Freeze Assets of Defendants Neldon Johnson, RaPower-3, LLC, and International Automated Systems, Inc.</i> <b>District Judge to handle the Motion.</b> (lnp) (Entered: 11/20/2017)
11/22/2017	<u>259</u>	MOTION for Extension of Time to File Response/Reply as to <u>252</u> MOTION to Appoint Receiver <i>to Freeze Assets of Dfts Neldon Johnson, RaPower-3, and International Automated Systems</i> , <u>251</u> MOTION for Partial Summary Judgment, <u>249</u> MOTION in Limine <i>to Exclude "Expert" Testimony of Kurt Hawes and Richard Jameson</i> , <u>250</u> MOTION in Limine <i>to Exclude "Expert" Testimony of Neldon Johnson</i> and Memorandum in Support filed by Defendants Roger Freeborn, International Automated Systems, Neldon Johnson, LTB1, RaPower-3, R. Gregory Shepard. (Attachments: # <u>1</u> Exhibit Notice of Filing Doc. 249, # <u>2</u> Exhibit Notice of Filing Doc. 250, # <u>3</u> Exhibit Notice of Filing Doc. 251, 254,255,256, # <u>4</u> Exhibit Notice of Filing Doc. 252) Motions referred to Evelyn J. Furse.(Paul, Steven) (Entered: 11/22/2017)
11/27/2017	<u>260</u>	MEMORANDUM in Opposition re <u>259</u> MOTION for Extension of Time to File Response/Reply as to <u>252</u> MOTION to Appoint Receiver <i>to Freeze Assets of Dfts Neldon Johnson, RaPower-3, and International Automated Systems</i> , <u>251</u> MOTION for Partial Summary Judgment, <u>249</u> MOTION filed by Plaintiff USA. (Attachments: # <u>1</u> Exhibit 698)(Gallagher, Erin) (Entered: 11/27/2017)
11/27/2017	<u>261</u>	<b>ORDER granting in part and denying in part <u>259</u> Motion for Extension of Time to File Response/Reply re <u>252</u> MOTION to Appoint Receiver <i>to Freeze Assets of Dfts Neldon Johnson, RaPower-3, and International Automated Systems</i>, <u>253</u> Defendant's MOTION in Limine <i>to Strike Expert Report and Exclude Testimony of Thomas Mancini</i>, <u>250</u> MOTION in Limine <i>to Exclude "Expert" Testimony of Neldon Johnson</i>, <u>257</u> Defendant's MOTION to Dismiss, <u>249</u> MOTION in Limine <i>to Exclude "Expert" Testimony of Kurt Hawes and Richard Jameson</i>, <u>251</u> MOTION for Partial Summary Judgment: Responses due by 12/17/2017; Replies due by 1/12/2018. Signed by Judge David Nuffer on 11/27/17 (alt)</b> (Entered: 11/27/2017)
12/15/2017	<u>262</u>	MEMORANDUM in Opposition re <u>257</u> Defendant's MOTION to Dismiss filed by Plaintiff USA. (Gallagher, Erin) (Entered: 12/15/2017)
12/15/2017	<u>263</u>	MEMORANDUM in Opposition re <u>253</u> Defendant's MOTION in Limine <i>to Strike Expert Report and Exclude Testimony of Thomas Mancini</i> filed by Plaintiff USA. (Attachments: # <u>1</u> Exhibit Pl. Ex. 15, # <u>2</u> Exhibit Pl. Ex. 699, #

			<u>3</u> Exhibit Pl. Ex. 700, # <u>4</u> Exhibit Defs. Ex. 1005, # <u>5</u> Exhibit Defs. Ex. 1006)(Gallagher, Erin) (Entered: 12/15/2017)
12/17/2017	<u>264</u>		Defendant's RESPONSE to Motion re <u>249</u> MOTION in Limine to Exclude "Expert" Testimony of Kurt Hawes and Richard Jameson filed by Defendants Roger Freeborn, International Automated Systems, Neldon Johnson, LTB1, RaPower-3, R. Gregory Shepard. (Snuffer, Denver) (Entered: 12/17/2017)
12/17/2017	<u>265</u>		Defendant's MEMORANDUM in Opposition re <u>251</u> MOTION for Partial Summary Judgment filed by Defendants Roger Freeborn, International Automated Systems, Neldon Johnson, LTB1, RaPower-3, R. Gregory Shepard. (Attachments: # <u>1</u> Exhibit List of N. Johnson Patents, # <u>2</u> Exhibit Excerpts from Dep. of Thomas R. Mancini, # <u>3</u> Exhibit Excerpts from Dep. of RaPower3, # <u>4</u> Exhibit Excerpts from Dep. Todd F. Anderson, # <u>5</u> Exhibit Anderson Letter, # <u>6</u> Exhibit Excerpts from Dep. Jessica Anderson, # <u>7</u> Exhibit Excerpts from Dep. of Kenneth W. Birrell, # <u>8</u> Exhibit Excerpts from Dep. IAS Inc., # <u>9</u> Exhibit Plaintiff's Exhibit 466, # <u>10</u> Exhibit Plaintiff's Exhibit 363)(Snuffer, Denver) (Entered: 12/17/2017)
12/17/2017	<u>266</u>		Defendant's AFFIDAVIT/DECLARATION of Neldon Johnson in Opposition re <u>251</u> MOTION for Partial Summary Judgment filed by Defendants Roger Freeborn, International Automated Systems, Neldon Johnson, LTB1, RaPower-3, R. Gregory Shepard. (Snuffer, Denver) (Entered: 12/17/2017)
12/17/2017	<u>267</u>		NOTICE of Death of Roger Freeborn by Roger Freeborn (Snuffer, Denver) (Entered: 12/17/2017)
12/17/2017	<u>268</u>		Defendant's MEMORANDUM in Opposition re <u>252</u> MOTION to Appoint Receiver to Freeze Assets of Dfts Neldon Johnson, RaPower-3, and International Automated Systems filed by Defendants Roger Freeborn, International Automated Systems, Neldon Johnson, LTB1, RaPower-3, R. Gregory Shepard. (Attachments: # <u>1</u> Exhibit 2013 Dept. of Energy Renewable Energy Data Book)(Snuffer, Denver) (Entered: 12/17/2017)
12/17/2017	<u>269</u>		Defendant's MEMORANDUM in Opposition re <u>250</u> MOTION in Limine to Exclude "Expert" Testimony of Neldon Johnson filed by Defendants Roger Freeborn, International Automated Systems, Neldon Johnson, LTB1, RaPower-3, R. Gregory Shepard. (Attachments: # <u>1</u> Exhibit List of Patents of N. Johnson)(Snuffer, Denver) (Entered: 12/17/2017)
01/08/2018	270		Motions No Longer Referred: <u>252</u> MOTION to Appoint Receiver to Freeze Assets of Dfts Neldon Johnson, RaPower-3, and International Automated Systems (ms) (Entered: 01/08/2018)
01/12/2018	<u>271</u>		Plaintiff's REPLY to Response to Motion re <u>249</u> MOTION in Limine to Exclude "Expert" Testimony of Kurt Hawes and Richard Jameson filed by Plaintiff USA. (Moran, Christopher) (Entered: 01/12/2018)
01/12/2018	<u>272</u>		Defendant's REPLY to Response to Motion re <u>253</u> Defendant's MOTION in Limine to Strike Expert Report and Exclude Testimony of Thomas Mancini filed by Defendants Roger Freeborn, International Automated Systems, Neldon Johnson, LTB1, RaPower-3, R. Gregory Shepard. (Attachments: # <u>1</u> Exhibit Expert Witness [Dr. Tom Mancini] Statement of Work)(Snuffer, Denver) (Entered: 01/12/2018)

01/12/2018	<u>273</u>		Defendant's REPLY to Response to Motion re <u>257</u> Defendant's MOTION to Dismiss filed by Defendants Roger Freeborn, International Automated Systems, Neldon Johnson, LTB1, RaPower-3, R. Gregory Shepard. (Snuffer, Denver) Modified on 1/12/2018: removed unnecessary text (alt) (Entered: 01/12/2018)
01/12/2018	<u>274</u>		Plaintiff's REPLY to Response to Motion re <u>250</u> MOTION in Limine to Exclude "Expert" Testimony of Neldon Johnson filed by Plaintiff USA. (Hines, Erin) (Entered: 01/12/2018)
01/12/2018	<u>275</u>		NOTICE OF FILING of Exhibit List re <u>250</u> MOTION in Limine to Exclude "Expert" Testimony of Neldon Johnson filed by Plaintiff USA. (Hines, Erin) (Entered: 01/12/2018)
01/12/2018	<u>276</u>		NOTICE OF FILING of of Exhibit List re <u>249</u> MOTION in Limine to Exclude "Expert" Testimony of Kurt Hawes and Richard Jameson filed by Plaintiff USA. (Moran, Christopher) (Entered: 01/12/2018)
01/12/2018	<u>277</u>		REPLY to Response to Motion re <u>251</u> MOTION for Partial Summary Judgment filed by Plaintiff USA. (Attachments: # <u>1</u> Exhibit Exhibit List, # <u>2</u> Exhibit Pl. Ex. 23A, # <u>3</u> Exhibit Pl. Ex. 355, # <u>4</u> Exhibit Pl. Ex. 358, # <u>5</u> Exhibit Pl. Ex. 361, # <u>6</u> Exhibit Pl. Ex. 362, # <u>7</u> Exhibit Pl. Ex. 364, # <u>8</u> Exhibit Pl. Ex. 479, # <u>9</u> Exhibit Pl. Ex. 548, # <u>10</u> Exhibit Pl. Ex. 580, # <u>11</u> Exhibit Pl. Ex. 703, # <u>12</u> Exhibit Pl. Ex. 704)(Gallagher, Erin) (Entered: 01/12/2018)
01/12/2018	<u>278</u>		Plaintiff's REPLY to Response to Motion re <u>252</u> MOTION to Appoint Receiver to Freeze Assets of Dfts Neldon Johnson, RaPower-3, and International Automated Systems filed by Plaintiff USA. (Hines, Erin) (Entered: 01/12/2018)
01/12/2018	<u>279</u>		RESPONSE re <u>265</u> Memorandum in Opposition to Motion, re Evidentiary Objections filed by USA. (Attachments: # <u>1</u> Exhibit Pl. Ex. 701, United States' Notice of Witness Depositions (including Frank Lunn), # <u>2</u> Exhibit Pl. Ex. 702, United States' Notice of Witness Depositions (including Robert Aulds))(Gallagher, Erin) Modified on 1/12/2018: corrected text (alt) (Entered: 01/12/2018)
01/22/2018			Deadlines/Hearings terminated. Past-due deadlines terminated to make the hearing/deadlines report up-to-date. (asb) (Entered: 01/22/2018)
01/22/2018	280		<b>DOCKET TEXT ORDER denying <u>253</u> Defendant's Motion in Limine. For the reasons set forth in Plaintiffs Opposition <u>263</u> , Defendants motion is DENIED. Counsel for Plaintiff is directed to prepare and submit a proposed Order denying the Motion. Signed by Judge David Nuffer on 01/22/2018. No attached document. (ms)</b> (Entered: 01/22/2018)
01/22/2018	281		<b>DOCKET TEXT ORDER denying <u>257</u> Defendant's Motion to Dismiss. For the reasons set forth in Plaintiffs Memorandum in Opposition <u>260</u> , Defendants motion is DENIED. Counsel for Plaintiff is directed to prepare and submit a proposed Order. The proposed Order should contain detailed reasoning and citations of legal authority. Signed by Judge David Nuffer on 01/22/2018. No attached document. (ms)</b> (Entered: 01/22/2018)
01/22/2018	282		

			DOCKET TEXT ORDER deferring ruling on <u>249</u> Motion in Limine; deferring ruling on <u>250</u> Motion in Limine. Plaintiff's Motions in Limine will be reserved until trial. The experts should prepare to testify. Signed by Judge David Nuffer on 01/22/2018. No attached document. (ms) (Entered: 01/22/2018)
01/24/2018	<u>283</u>		MEMORANDUM DECISION AND ORDER overruling objection and affirming Magistrate Judge's <u>235</u> Order on <u>226</u> Motion for Sanctions. Signed by Judge David Nuffer on 1/24/18 (alt) (Entered: 01/24/2018)
01/25/2018	284		AMENDED SCHEDULING ORDER: Final Pretrial Conference set for 3/19/2018 at 09:00 AM in Rm 3.100 before Judge David Nuffer. 10 Day Bench Trial set to begin 4/2/2018 at 08:00 AM in Rm 3.100 before Judge David Nuffer. Dates of 10 Day Bench Trial: April 2, 3, 4, 5, 19, 20, 23, 24; May 9; and June 4. Signed by Judge David Nuffer on 01/25/2018. (ms) (Entered: 01/25/2018)
01/26/2018			<b>Set/Reset Hearings:</b> Final Pretrial Conference set for 3/19/2018 at 09:00 AM in Rm 3.100 before Judge David Nuffer. 10-Day Bench Trial set for 4/2/2018 4/3/2018 4/4/2018 4/5/2018 4/19/2018 04/20/2018 4/23/2018 4/24/2018 5/9/2018 6/4/2018 at 08:00 AM in Rm 3.100 before Judge David Nuffer. (asb) (Entered: 01/26/2018)
01/31/2018	<u>285</u>		OBJECTIONS to 281 Order on Motion to Dismiss, filed by Neldon Johnson, LTB1, RaPower-3, R. Gregory Shepard. (Attachments: # <u>1</u> Text of Proposed Order)(Paul, Steven) (Entered: 01/31/2018)
01/31/2018	<u>286</u>		OBJECTIONS to 280 Order on Motion in Limine, filed by International Automated Systems, Neldon Johnson, LTB1, RaPower-3, R. Gregory Shepard. (Attachments: # <u>1</u> Text of Proposed Order)(Paul, Steven) (Entered: 01/31/2018)
02/05/2018	287		AMENDED SCHEDULING ORDER: Final Pretrial Conference set for 3/19/2018 at 09:00 AM in Rm 3.100 before Judge David Nuffer. 10 Day Bench Trial set to begin 4/2/2018 at 08:00 AM in Rm 3.100 before Judge David Nuffer. Dates of 10 Day Bench Trial: April 2, 3, 4, 5, 19, 20, 23, 24, 25, 26; and if necessary May 9; and June 4. Signed by Judge David Nuffer on 02/05/2018. (ms) (Entered: 02/05/2018)
02/07/2018	<u>288</u>		TRIAL ORDER with instructions to counsel: Final Pretrial Conference set for 3/19/2018 at 09:00 AM in Rm 3.100 before Judge David Nuffer. 10-Day Bench Trial set to begin 4/2/2018 at 08:00 AM in Rm 3.100 before Judge David Nuffer. Signed by Judge David Nuffer on 2/7/18 (alt) (Entered: 02/07/2018)
02/09/2018	<u>289</u>		MOTION in Limine to Reinstate Trial by Jury and Memorandum in Support filed by Defendants International Automated Systems, Neldon Johnson, LTB1, RaPower-3, R. Gregory Shepard. (Paul, Steven) Modified on 3/7/2018: corrected motion relief (alt) (Entered: 02/09/2018)
02/13/2018	<u>290</u>		MOTION for Attorney Fees and Memorandum in Support <i>re Motions to Compel</i> filed by Plaintiff USA. (Attachments: # <u>1</u> Exhibit Pl. Ex. 382, USA Notice of Oveson, Buck, Mantyla Depositions, # <u>2</u> Exhibit Pl. Ex. 712, Itemized Expenses, # <u>3</u> Text of Proposed Order) Motions referred to Evelyn J. Furse.(Moran, Christopher) Modified on 2/27/2018: removed excess text (alt)



		(Entered: 02/13/2018)
02/20/2018	<u>291</u>	<b>DOCKET TEXT ORDER taking under advisement <u>289</u> Motion in Limine. Response to Defendants' Motion in Limine shall be due on or before February 26, 2018. Signed by Judge David Nuffer on 02/20/2018. Docket Text Only. No attached document. (ms)</b> (Entered: 02/20/2018)
02/20/2018	<u>292</u>	MOTION for Leave to File Excess Pages and Memorandum in Support filed by Plaintiff USA. (Attachments: # <u>1</u> Text of Proposed Order) Motions referred to Evelyn J. Furse.(Gallagher, Erin) (Entered: 02/20/2018)
02/20/2018	<u>293</u>	<b>ORDER granting <u>292</u> Motion for Leave to File Excess Pages. Signed by Magistrate Judge Evelyn J. Furse on 2/20/2018. (blh)</b> (Entered: 02/20/2018)
02/23/2018	<u>294</u>	Proposed Exhibit List <i>Defendants' Pretrial Disclosures</i> by Defendants International Automated Systems, Neldon Johnson, LTB1, RaPower-3, R. Gregory Shepard.. (Garriott, Daniel) (Entered: 02/23/2018)
02/23/2018	<u>295</u>	OBJECTIONS filed by International Automated Systems, Neldon Johnson, LTB1, RaPower-3, R. Gregory Shepard. (Garriott, Daniel) (Entered: 02/23/2018)
02/23/2018	<u>296</u>	OBJECTIONS filed by International Automated Systems, Neldon Johnson, LTB1, RaPower-3, R. Gregory Shepard. (Garriott, Daniel) (Entered: 02/23/2018)
02/26/2018	<u>297</u>	NOTICE OF FILING of United States' Deposition Designations for Robert Aulds filed by Plaintiff USA. (Attachments: # <u>1</u> Exhibit Pl. Ex. 687, United States' Deposition Designations for Robert Aulds)(Moran, Christopher) (Entered: 02/26/2018)
02/26/2018	<u>298</u>	NOTICE OF FILING of United States' Deposition Designations for Roger Freeborn filed by Plaintiff USA. (Attachments: # <u>1</u> Exhibit Pl. Ex. 688 United States' Deposition Designations for Roger Freeborn)(Moran, Christopher) (Entered: 02/26/2018)
02/26/2018	<u>299</u>	NOTICE OF FILING of United States' Deposition Designations for Peter Gregg filed by Plaintiff USA. (Attachments: # <u>1</u> Exhibit Pl. Ex. 689. United States' Deposition Designations for Peter Gregg)(Moran, Christopher) (Entered: 02/26/2018)
02/26/2018	<u>300</u>	NOTICE OF FILING of United States' Deposition Designations of Roger Halvorsen filed by Plaintiff USA. (Attachments: # <u>1</u> Exhibit Pl. Ex. 690, United States' Deposition Designations of Roger Halvorsen)(Moran, Christopher) (Entered: 02/26/2018)
02/26/2018	<u>301</u>	NOTICE OF FILING of United States' Deposition Designations of John Howell filed by Plaintiff USA. (Attachments: # <u>1</u> Exhibit Pl. Ex. 683, United States' Deposition Designations of John Howell)(Moran, Christopher) (Entered: 02/26/2018)
02/26/2018	<u>302</u>	NOTICE OF FILING of United States' Deposition Designations for Neldon Johnson filed by Plaintiff USA. (Attachments: # <u>1</u> Exhibit Pl. Ex. 579, United States' Deposition Designations of Neldon Johnson (VOL. I), # <u>2</u> Exhibit Pl. Ex. 581, United States' Deposition of International Automated Systems (Neldon Johnson, designee), # <u>3</u> Exhibit Pl. Ex. 673, United States' Deposition

		Designations of LTB1, LLC (Neldon Johnson, designee), # <u>4</u> Exhibit Pl. Ex. 681, United States' Deposition Designations of Neldon Johnson (VOL. II), # <u>5</u> Exhibit Pl. Ex. 682, United States' Deposition Designations of RaPower-3, LLC (Neldon Johnson, designee))(Moran, Christopher) (Entered: 02/26/2018)
02/26/2018	<u>303</u>	NOTICE OF FILING of United States' Deposition Designations for Frank Lunn filed by Plaintiff USA. (Attachments: # <u>1</u> Exhibit Pl. Ex. 693, United States' Deposition Designations for Frank Lunn)(Moran, Christopher) (Entered: 02/26/2018)
02/26/2018	<u>304</u>	NOTICE OF FILING of United States' Deposition Designations for PacifiCorp filed by Plaintiff USA. (Attachments: # <u>1</u> Exhibit Pl. Ex. 713, United States' Deposition Designations for PacifiCorp)(Moran, Christopher) (Entered: 02/26/2018)
02/26/2018	<u>305</u>	NOTICE OF FILING of United States' Deposition Designations for Mike Penn filed by Plaintiff USA. (Attachments: # <u>1</u> Exhibit Pl. Ex. 448, Deposition Designations for Mike Penn)(Moran, Christopher) (Entered: 02/26/2018)
02/26/2018	<u>306</u>	NOTICE OF FILING of United States' Deposition Designations for R. Gregory Shepard filed by Plaintiff USA. (Attachments: # <u>1</u> Exhibit Pl. Ex. 685, United States' Deposition Designations for R. Gregory Shepard)(Moran, Christopher) (Entered: 02/26/2018)
02/26/2018	<u>307</u>	NOTICE OF FILING of United States' Deposition Designations for Brian Zeleznik filed by Plaintiff USA. (Attachments: # <u>1</u> Exhibit Pl. Ex. 697, United States' Deposition Designations for Brian Zeleznik)(Moran, Christopher) (Entered: 02/26/2018)
02/26/2018	<u>308</u>	MOTION for Leave to File pretrial disclosures nunc pro tunc and Memorandum in Support <i>unopposed</i> filed by Plaintiff USA. (Attachments: # <u>1</u> Text of Proposed Order) Motions referred to Evelyn J. Furse.(Gallagher, Erin) (Entered: 02/26/2018)
02/26/2018	<u>309</u>	MEMORANDUM in Opposition re <u>289</u> MOTION in Limine and Memorandum in Support <i>to Reinstate Trial by Jury</i> filed by Plaintiff USA. (Attachments: # <u>1</u> Exhibit Exhibit List, # <u>2</u> Exhibit 777)(Gallagher, Erin) (Entered: 02/26/2018)
02/27/2018	<u>310</u>	<b>WRITTEN ORDER following 280 Docket Text Order of 1/22/18 denying <u>253</u> Motion in Limine. Signed by Judge David Nuffer on 2/27/18 (alt)</b> (Entered: 02/27/2018)
02/27/2018	<u>311</u>	<b>WRITTEN ORDER following 281 Docket Text Order of 1/22/18 denying <u>257</u> Motion to Dismiss. Signed by Judge David Nuffer on 2/27/18 (alt)</b> (Entered: 02/27/2018)
02/27/2018	<u>312</u>	<b>ORDER granting <u>308</u> Motion for Leave to File Pretrial Disclosures Nunc Pro Tunc. Signed by Magistrate Judge Evelyn J. Furse on 2/27/18 (alt)</b> (Entered: 02/27/2018)
02/27/2018	<u>313</u>	MEMORANDUM in Opposition re <u>290</u> MOTION for Attorney Fees <i>re Motions to Compel</i> filed by Respondent Heideman & Associates. (Attachments: # <u>1</u> Exhibit Exhibit 1_Birrell, Kenneth W. mini, # <u>2</u> Exhibit Exhibit 2-Buck, Cody Michael-mini, # <u>3</u> Exhibit Exhibit 3_Oveson, Kenneth Wayne -mini, # <u>4</u> Exhibit Exhibit 4_Mantyla, David - mini)(Heideman,

		Justin) (Entered: 02/27/2018)
02/28/2018	<u>314</u>	Proposed Witness List by USA. (Hines, Erin) (Entered: 02/28/2018)
02/28/2018	<u>315</u>	Proposed Exhibit List by Plaintiff USA.. (Hines, Erin) (Entered: 02/28/2018)
02/28/2018	<u>316</u>	NOTICE OF FILING of Pretrial Disclosure <i>re: Deposition Designations</i> filed by Plaintiff USA. (Hines, Erin) (Entered: 02/28/2018)
03/01/2018	<u>317</u>	OBJECTIONS to <u>290</u> MOTION for Attorney Fees <i>re Motions to Compel</i> filed by Roger Freeborn, International Automated Systems, Neldon Johnson, LTB1, RaPower-3, R. Gregory Shepard. (Snuffer, Denver) (Entered: 03/01/2018)
03/02/2018	<u>318</u>	<b>MEMORANDUM DECISION AND ORDER denying <u>251</u> Motion for Partial Summary Judgment; denying without prejudice <u>252</u> Motion to Appoint Receiver. Signed by Judge David Nuffer on 3/2/18 (alt)</b> (Entered: 03/02/2018)
03/05/2018	<u>319</u>	Defendant's MOTION in Limine and Memorandum in Support <i>Excluding Testimony Regarding Damages Relating to Disgorgement of Funds</i> filed by Defendants Roger Freeborn, International Automated Systems, Neldon Johnson, LTB1, RaPower-3, R. Gregory Shepard. (Snuffer, Denver) (Entered: 03/05/2018)
03/05/2018	<u>320</u>	ERRATA to <u>319</u> Defendant's MOTION in Limine and Memorandum in Support <i>Excluding Testimony Regarding Damages Relating to Disgorgement of Funds</i> filed by Defendants Roger Freeborn, International Automated Systems, Neldon Johnson, LTB1, RaPower-3, R. Gregory Shepard. (Attachments: # <u>1</u> Exhibit Plaintiff's Exhibit 752, # <u>2</u> Exhibit Plaintiff's Exhibit 734, # <u>3</u> Exhibit Plaintiff's Exhibit 750)(Snuffer, Denver) (Entered: 03/05/2018)
03/07/2018	321	<b><u>AMENDED NOTICE OF HEARING:</u></b>  Final Pretrial Conference reset for Monday, 3/19/2018 at 08:30 AM in Rm 3.100 before Judge David Nuffer. (time change only) (asb) (Entered: 03/07/2018)
03/07/2018		NOTICE OF ERROR/CORRECTION re <u>289</u> MOTION to Reinstate Trial by Jury. Error: Filer selected wrong motion relief – motion is not seeking 'In Limine' relief. Correction: The motion relief has been corrected to "Miscellaneous Relief" and entry text corrected. (alt) (Entered: 03/07/2018)
03/07/2018	<u>322</u>	<b>MEMORANDUM DECISION AND ORDER denying <u>289</u> Motion to Reinstate Trial by Jury. Signed by Judge David Nuffer on 3/7/18 (alt)</b> (Entered: 03/07/2018)
03/08/2018	323	<b>DOCKET TEXT ORDER taking under advisement <u>319</u> Motion in Limine. Response is due Monday, March 12, 2018. Signed by Judge David Nuffer on 3/8/2018. Docket text only. No attached document. (ms)</b> (Entered: 03/08/2018)
03/08/2018	324	<b>Docket Text Order – The briefing on the demand for jury trial has revealed a wide range of possibilities for measurement and proof of a disgorgement amount. If the Motion in Limine <u>319</u> is not granted, the parties must submit briefs on or before noon March 26, 2018 on those issues. Specifically, the parties must provide legal authority for (1) measuring disgorgement by the amount of (a) taxes avoided by investors in Defendant RaPower; (b) gross</b>

		profit of RaPower; (c) net profit of RaPower; (d) income of individual defendants from RaPower; or any other measure, and (2) who, in the event net profit is a proper measure, bears the burden of proof on expenses RaPower incurred in its business. Docket text only. No attachment. Signed by Judge David Nuffer on 3/8/2018. (ms) (Entered: 03/08/2018)
03/08/2018	<u>325</u>	Defendant's MOTION Rule 60(a) Oversight, Request to File Reply to Doc. 309 (Plaintiff's Opposition to Reinstate Jury re <u>322</u> Order on Motion for Miscellaneous Relief, Memorandum Decision and Memorandum in Support filed by Defendants Roger Freeborn, International Automated Systems, Neldon Johnson, LTB1, RaPower-3, R. Gregory Shepard. Motions referred to Evelyn J. Furse.(Snuffer, Denver) (Entered: 03/08/2018)
03/08/2018	<u>326</u>	Defendant's REPLY to Response to Motion re <u>289</u> MOTION to Reinstate Trial by Jury filed by Defendants Roger Freeborn, International Automated Systems, Neldon Johnson, LTB1, RaPower-3, R. Gregory Shepard. (Snuffer, Denver) (Entered: 03/08/2018)
03/09/2018	<u>327</u>	NOTICE OF FILING of United States' Objections and Counter-Designations to Defendants' Deposition Counter-Designations re <u>294</u> Exhibit List(Proposed) filed by Plaintiff USA. (Hines, Erin) (Entered: 03/09/2018)
03/09/2018	<u>328</u>	OBJECTIONS to <u>294</u> Exhibit List(Proposed) filed by USA. (Attachments: # <u>1</u> Exhibit 411 excerpts, # <u>2</u> Exhibit 449, # <u>3</u> Exhibit 450, # <u>4</u> Exhibit 451, # <u>5</u> Exhibit 452, # <u>6</u> Exhibit 453 excerpts, # <u>7</u> Exhibit 644 excerpts, # <u>8</u> Exhibit 789 excerpts)(Gallagher, Erin) (Entered: 03/09/2018)
03/09/2018	<u>329</u>	Redacted OBJECTIONS to <u>296</u> Objections filed by USA. (Attachments: # <u>1</u> Exhibit Pl. Ex. 742-A, # <u>2</u> Exhibit Pl. Ex. 742-B, # <u>3</u> Exhibit Pl. Ex. 782, # <u>4</u> Exhibit Pl. Ex. 783, # <u>5</u> Exhibit Pl. Ex. 784, # <u>6</u> Exhibit Pl. Ex. 785, # <u>7</u> Exhibit Pl. Ex. 786, # <u>8</u> Exhibit Pl. Ex. 787, # <u>9</u> Exhibit Pl. Ex. 788)(Moran, Christopher) Modified on 3/9/2018: added "Redacted" to text (alt) (Entered: 03/09/2018)
03/09/2018	<u>330</u>	MOTION for Leave to File Sealed Document re <u>329</u> Objections, filed by Plaintiff USA. Motions referred to Evelyn J. Furse.(Moran, Christopher) (Entered: 03/09/2018)
03/09/2018	<u>331</u>	<b>**SEALED DOCUMENT**</b> SEALED EXHIBITS 742-A and 742-B TO <u>329</u> Objections, filed by Plaintiff USA  <b>NOTE: Filer is instructed to serve the sealed document on all other parties..</b> (Attachments: # <u>1</u> Exhibit Pl. Ex. 742-A, # <u>2</u> Exhibit Pl. Ex. 742-B)(Moran, Christopher) Modified on 3/14/2018: updated text (alt) (Entered: 03/09/2018)
03/12/2018	<u>332</u>	MEMORANDUM in Opposition re <u>319</u> Defendant's MOTION in Limine <i>Excluding Testimony Regarding Damages Relating to Disgorgement of Funds</i> filed by Plaintiff USA. (Attachments: # <u>1</u> Exhibit Pl. Ex. 666-A, # <u>2</u> Exhibit Pl. Ex. 683-A, # <u>3</u> Supplement (unpublished case, SEC v. Razmilovic, Case No. CV-04-2276 (E.D. NY), Doc. No. 194)(Moran, Christopher) (Entered: 03/12/2018)
03/12/2018	333	<b>DOCKET TEXT ORDER GRANTING <u>330</u> Motion for Leave to File Sealed Document. Signed by Magistrate Judge Evelyn J. Furse on 3/12/2018. No</b>

		attached document. (nas) (Entered: 03/12/2018)
03/12/2018	<u>334</u>	Proposed Findings of Fact by USA. (Gallagher, Erin) (Entered: 03/12/2018)
03/12/2018	<u>335</u>	Proposed Findings of Fact by Roger Freeborn, International Automated Systems, Neldon Johnson, LTB1, RaPower-3, R. Gregory Shepard. (Paul, Steven) (Entered: 03/12/2018)
03/13/2018	<u>336</u>	MEMORANDUM DECISION and ORDER granting <u>325</u> Motion Defendants' Rule 60(a) Request for Relief Based on Oversight and confirming Order Denying Trial by Jury. The 10-day bench trial will begin April 2nd as previously scheduled. Signed by Judge David Nuffer on 3/13/2018. (blh) (Entered: 03/13/2018)
03/13/2018	<u>337</u>	Defendant's REPLY to Response to Motion re <u>319</u> Defendant's MOTION in Limine <i>Excluding Testimony Regarding Damages Relating to Disgorgement of Funds</i> filed by Defendants Roger Freeborn, International Automated Systems, Neldon Johnson, LTB1, RaPower-3, R. Gregory Shepard. (Attachments: # <u>1</u> Exhibit Plaintiff's Initial Rule 26 Disclosures)(Snuffer, Denver) (Entered: 03/13/2018)
03/14/2018	<u>338</u>	MEMORANDUM DECISION AND ORDER denying <u>319</u> Motion in Limine <i>Excluding Testimony Regarding Damages Relating to Disgorgement of Funds</i> . Parties to submit briefs on measurement and proof of a disgorgement amount on or before noon, 3/26/18. Signed by Judge David Nuffer on 3/14/18 (alt) (Entered: 03/14/2018)
03/15/2018	<u>339</u>	Defendant's MOTION for Leave to Appeal DEFENDANTS' MOTION TO CERTIFY AND AMEND THE ORDER DENYING DEFENDANTS MOTION TO REINSTATE TRIAL BY JURY and Memorandum in Support filed by Defendants Roger Freeborn, International Automated Systems, Neldon Johnson, LTB1, RaPower-3, R. Gregory Shepard. Motions referred to Evelyn J. Furse.(Snuffer, Denver) (Entered: 03/15/2018)
03/15/2018	340	DOCKET TEXT ORDER denying <u>339</u> Motion for Leave to Appeal. There is no "substantial ground for difference of opinion." Further, due to the proximity of trial, "an immediate appeal " would clearly not "materially advance the ultimate termination of the litigation." It would delay this case even more. Also, defendants failed to articulate a reason why the Memorandum and Decision Order Denying Motion to Reinstate Jury Trial <u>322</u> and Memorandum Decision and Order Granting Defendants Rule 60(a) Request <u>336</u> qualifies for immediate appeal under the collateral order doctrine, specifically why this issue would be effectively unreviewable on appeal from a final judgment. An Order Denying Motion to Reinstate Jury Trial can be adequately reviewed on appeal from a final judgment. Signed by Judge David Nuffer on 3/15/2018. Docket text only. No attached document. (ms) (Entered: 03/15/2018)
03/16/2018	<u>341</u>	NOTICE of Appearance by Joshua D. Egan on behalf of International Automated Systems, Neldon Johnson, LTB1, RaPower-3 (Egan, Joshua) (Entered: 03/16/2018)
03/19/2018	342	Minute Entry for proceedings held before Judge David Nuffer: Final Pretrial Conference held on 3/19/2018, Counsel present for parties. Discussion heard on preparations for trial. Court ordered Terri Eppich, to be available for a 3 hour deposition, Lemar

		<p>Roulhac to be available for a 4 hour deposition.  Court overruled the defendants objections to plaintiffs 12 fact witnesses.  Deposition designations due 3/26/2018.  Government to file a motion re: sealing exhibits by 3/20/2018, response to due 3/23/2018 – limited to 3 pages.  Mr. Snuffer to file motion re: depositions by noon, 3/21/2018, limited to 5 pages. No response necessary, unless ordered by the court.  Defendant Freeborn, deceased, is dismissed as a party.  Mr. Snuffer requested a site visit during trial. Court made no decision on the request.  Trial will begin each day at 8:30 a.m., with the first week to end around 4:00 p.m  Status Conference set for 3/29/2018 at 01:30 PM in Rm 3.100 before Judge David Nuffer.  Court adjourned..  Attorney for Plaintiff: Erin Healy Gallagher, Erin Hines, Christopher Moran, Attorney for Defendant: Denver Snuffer, Steven Paul, Daniel Garriott. Court Reporter: Becky Janke.(Time Start: 8:28, Time End: 10:05, Room 3.100.)(asb) (Entered: 03/19/2018)</p>
03/19/2018	<a href="#">343</a>	MOTION Modify Trial Subpoena and Memorandum in Support filed by Movant Todd Anderson. (Attachments: # <a href="#">1</a> Exhibit A – Declaration of Todd Anderson) Motions referred to Evelyn J. Furse.(Martin, Byron) (Entered: 03/19/2018)
03/19/2018	344	<b>DOCKET TEXT ORDER taking under advisement <a href="#">343</a> Motion Modify Trial Subpoena. The parties may submit a response to this Motion by Thursday, March 22, 2018. Signed by Judge David Nuffer on 03/19/18. Docket text only. No attached document. (ms)</b> (Entered: 03/19/2018)
03/20/2018	<a href="#">345</a>	MOTION to Unseal Document <a href="#">331</a> Sealed Document, filed by USA, <a href="#">246</a> Exhibits filed by USA, <a href="#">245</a> Exhibits filed by USA and Memorandum in Support filed by Plaintiff USA. (Attachments: # <a href="#">1</a> Text of Proposed Order) Motions referred to Evelyn J. Furse.(Gallagher, Erin) (Entered: 03/20/2018)
03/20/2018		<b>Set Hearings:</b> 10–Day Bench Trial set for 4/2/2018, 4/3/2018, 4/4/2018, 4/5/2018, 4/19/2018, 4/20/2018, 4/23/2018, 4/24/2018, 4/25/2018, 4/26/2018, 5/9/2018, 6/4/2018 at 08:30 AM in Rm 3.100 before Judge David Nuffer. (time change from 8:00 a.m. to 8:30 a.m.)(asb) (Entered: 03/20/2018)
03/21/2018	346	Motions No Longer Referred: <a href="#">345</a> MOTION to Unseal Document <a href="#">331</a> Sealed Document, filed by USA, <a href="#">246</a> Exhibits filed by USA, <a href="#">245</a> Exhibits filed by USA and Memorandum in Support , <a href="#">249</a> MOTION in Limine to Exclude "Expert" Testimony of Kurt Hawes and Richard Jameson, <a href="#">343</a> MOTION Modify Trial Subpoena and Memorandum in Support , <a href="#">290</a> MOTION for Attorney Fees re Motions to Compel, <a href="#">250</a> MOTION in Limine to Exclude "Expert" Testimony of Neldon Johnson (asb) (Entered: 03/21/2018)
03/21/2018	<a href="#">347</a>	Memorandum to Exclude Deposition Testimony in Lieu of Live Witnesses BRIEF re 342 Pretrial Conference – Final,,,,, Set Hearings,,,,, filed by Defendants International Automated Systems, Neldon Johnson, LTB1, RaPower–3, R. Gregory Shepard. (Garriott, Daniel) (Entered: 03/21/2018)
03/22/2018	<a href="#">348</a>	

		MEMORANDUM in Opposition re <u>343</u> MOTION Modify Trial Subpoena and Memorandum in Support re: <i>Todd and Jessica Anderson Trial Subpoenas</i> filed by Plaintiff USA. (Hines, Erin) (Entered: 03/22/2018)
03/23/2018	<u>349</u>	Defendant's RESPONSE to Motion re <u>343</u> MOTION Modify Trial Subpoena and Memorandum in Support filed by Defendants International Automated Systems, Neldon Johnson, LTB1, RaPower-3, R. Gregory Shepard. (Paul, Steven) (Entered: 03/23/2018)
03/26/2018	350	<b>DOCKET TEXT ORDER DENYING <u>343</u> Motion to Modify Trial Subpoena. The Parties are directed to notify the Andersons of a date certain for their testimony. The Andersons may have the option of not testifying on the same day. Docket Text Only. No attached document. Signed by Judge David Nuffer on 03/26/2018.(ms)</b> (Entered: 03/26/2018)
03/26/2018	<u>351</u>	Disgorgement Issues BRIEF filed by Plaintiff USA. (Attachments: # <u>1</u> Exhibit Exhibit List, # <u>2</u> Exhibit 25, # <u>3</u> Exhibit 38, # <u>4</u> Exhibit 40, # <u>5</u> Exhibit 128, # <u>6</u> Exhibit 208, # <u>7</u> Exhibit 325, # <u>8</u> Exhibit 355, # <u>9</u> Exhibit 356, # <u>10</u> Exhibit 463, # <u>11</u> Exhibit 490, # <u>12</u> Exhibit 495, # <u>13</u> Exhibit 496, # <u>14</u> Exhibit 497, # <u>15</u> Exhibit 507, # <u>16</u> Exhibit 531, # <u>17</u> Exhibit 540, # <u>18</u> Exhibit 646, # <u>19</u> Exhibit 647, # <u>20</u> Exhibit 648, # <u>21</u> Exhibit 649, # <u>22</u> Exhibit 650, # <u>23</u> Exhibit 743, # <u>24</u> Exhibit 744, # <u>25</u> Exhibit 745, # <u>26</u> Exhibit 748, # <u>27</u> Exhibit 752)(Gallagher, Erin) (Entered: 03/26/2018)
03/26/2018	<u>352</u>	Defendant's MEMORANDUM re <u>338</u> Order on Motion in Limine,, Memorandum Decision, <i>MEMORANDUM REGARDING PROPER BASIS FOR DISGORGEMENT AND PARTIES RESPECTIVE BURDENS</i> filed by International Automated Systems, Neldon Johnson, LTB1, RaPower-3, R. Gregory Shepard. (Snuffer, Denver) (Entered: 03/26/2018)
03/26/2018	<u>353</u>	REPLY to Response to Motion re <u>343</u> MOTION Modify Trial Subpoena and Memorandum in Support filed by Movant Todd Anderson. (Martin, Byron) (Entered: 03/26/2018)
03/26/2018	354	<b>DOCKET TEXT ORDER. Taking under advisement – <u>347</u> Defendants' Memorandum to Exclude the Use of Deposition Testimony in Lieu of Live Witnesses at Trial. The Government is Ordered to respond no later than Thursday, March 29, 2018, at noon. Specifically, the response should detail the basis under the rules for permitting the deposition designation of PacifiCorp in lieu of live testimony. No attached document. Docket text only. Signed by Judge David Nuffer on 03/26/2018. (ms)</b> (Entered: 03/26/2018)
03/27/2018	355	<b>DOCKET TEXT ORDER – Consistent with the strong presumption in favor of public access to judicial records <u>345</u> Motion to Unseal Exhibits is GRANTED. Signed by Judge David Nuffer on 03272018. Docket Text Only. No attached document. (ms)</b> (Entered: 03/27/2018)
03/28/2018	356	<b><u>NOTICE VACATING STATUS CONFERENCE HEARING</u></b> set for Thursday, March 29, 2018 at 1:30 p.m. before Judge David Nuffer (asb) (Entered: 03/28/2018)
03/29/2018	<u>357</u>	use of PacifiCorp deposition in lieu of live testimony BRIEF re 354 Order,, filed by Plaintiff USA. (Attachments: # <u>1</u> Exhibit 193 Deposition subpoena to PacifiCorp, # <u>2</u> Exhibit 713A Deposition of PacifiCorp, # <u>3</u> Exhibit 794 Notice of PacifiCorp deposition, # <u>4</u> Exhibit 795 Declaration of

		PacifiCorp)(Gallagher, Erin) (Entered: 03/29/2018)
03/29/2018	358	<p>DOCKET TEXT ORDER DENYING Defendants' request to exclude the use of deposition testimony in lieu of live witnesses at trial <u>347</u> . Pursuant to Rule 32(a)(3) the United States may use deposition testimony in lieu of live witnesses at trial for International Automated Systems, Inc.; Neldon Johnson; LTB1, LLC; RaPower-3, LLC; and R. Gregory Shepard. Based on the United States' Response <u>357</u> PacifiCorp deposition testimony is permitted by Rule 32(a)(4)(B). Defendants do not dispute the United States' other deposition designations are permitted under the Rule. Defendants' counsel's request that he is entitled to cross-examine any of the Defendants with leading questions is also DENIED. Fed. R. Evid. 611(c). Docket text only. No attachment. Signed by Judge David Nuffer on 03/29/2018. (ms) (Entered: 03/29/2018)</p>
03/29/2018	359	<p>DOCKET TEXT ORDER – Pursuant to the Memorandum Decision and Order <u>338</u> the Parties submitted briefs on the issue of disgorgement <u>351</u> <u>352</u> . The Parties' briefing and supporting documentation have been carefully reviewed. This Order finds:</p> <ul style="list-style-type: none"> <li>–A party is not unjustly enriched if the gains he acquired flow from any legitimate business activity.</li> <li>–A claimant bears the burden of showing the disgorgement amount is a reasonable approximation of defendants unjust enrichment.</li> <li>–Unjust enrichment may be shown by gross receipts or increase in net assets.</li> <li>–A defendant is free to introduce evidence showing that unjust enrichment is something less than the amount put in evidence by plaintiff. Defendant has the burden of proving entitlement to a credit or deduction for business expenses, which may include refunds to customers.</li> <li>–However, defendant is not entitled to a credit for costs or expenses incurred in an attempt to defraud the claimant.</li> <li>–Tax credits or depreciation deductions by defendants' customers might be a measure of disgorgement, but are not a required measure of disgorgement.</li> <li>–Individuals may be held personally liable for an entity's debt, if the individuals' unjust enrichment was directly derived from using the entity as a conduit for fraud.</li> <li>–Defendants may, when appropriate by transmission of funds from one to another, be jointly and severally liable for disgorgement.</li> </ul> <p>Docket text only. No attached document. Signed by Judge David Nuffer on 03/29/2018. (ms) (Entered: 03/29/2018)</p>
03/30/2018	<u>360</u>	ORDER Ruling on Objections to Pretrial Deposition Designations. Signed by Judge David Nuffer on 3/30/18 (alt) (Entered: 03/30/2018)
03/30/2018	361	<p>DOCKET TEXT ORDER – The following rulings on objections to pretrial deposition designations are hereby incorporated into <u>360</u> as follows:</p> <ol style="list-style-type: none"> <li>1) Deposition of PacifiCorp taken November 15, 2016 – 62:17 20, Objection, Not relevant, Fed. R. Evid. 401, 402 – Overruled</li> <li>2) Deposition of Peter Gregg taken November 16, 2016 –170:4 13, Objection, Leading, Fed. R. Evid. 611(c); Argumentative, Fed. R. Evid. 611(a); Not relevant, Fed. R. Evid. 401, 402 – Overruled</li> <li>3) Deposition of Robert Aulds taken March 14, 2017 – 168:10 169:18, Objection, Not relevant, Fed. R. Evid. 401, 402 – Overruled</li> <li>4) Deposition of John Howell taken August 23, 2017 – a. 126 133, Objection.</li> </ol>



		<p>Argumentative; lack of foundation; lack of personal knowledge; calls for speculation – Overruled</p> <p>Docket Text Only. No attachment. Signed by Judge David Nuffer on 03/30/2018. (ms) (Entered: 03/30/2018)</p>
03/30/2018	<u>362</u>	<p>MOTION in Limine and Memorandum in Support <i>to Limit the Testimony of Lemar Roulhac at Trial</i> filed by Defendants International Automated Systems, Neldon Johnson, LTB1, RaPower–3, R. Gregory Shepard. (Garriott, Daniel) (Entered: 03/30/2018)</p>
03/30/2018	363	<p>DOCKET TEXT ORDER taking under advisement <u>362</u> Motion in Limine. A three page response may be submitted up through Monday, April 2, 2018 at 6:00 p.m. Docket text only. No attached document. Signed by Judge David Nuffer on 03/30/2018. (ms) (Entered: 03/30/2018)</p>
04/01/2018	<u>364</u>	<p>Defendant's MOTION in Limine and Memorandum in Support <i>MOTION IN LIMINE TO STRIKE PLAINTIFF'S SUMMARY EXHIBIT 752 (JOANNA PEREZ)</i> filed by Defendants International Automated Systems, Neldon Johnson, LTB1, RaPower–3, R. Gregory Shepard. (Attachments: # <u>1</u> Exhibit Deposition of J. Perez)(Snuffer, Denver) (Entered: 04/01/2018)</p>
04/01/2018	<u>365</u>	<p>Defendant's MOTION in Limine and Memorandum in Support <i>DEFENDANTS' MOTION IN LIMINE TO STRIKE PLAINTIFF'S SUMMARY EXHIBIT 734, 735, 736, 737, 738, 739, 740, 741, 742(A), 742(B), AND 750 (AMANDA REINKEN)</i> filed by Defendants International Automated Systems, Neldon Johnson, RaPower–3, R. Gregory Shepard. (Attachments: # <u>1</u> Exhibit Deposition of A. Reinken)(Snuffer, Denver) (Entered: 04/01/2018)</p>
04/02/2018	<u>366</u>	<p>MEMORANDUM in Opposition re <u>362</u> MOTION in Limine and Memorandum in Support <i>to Limit the Testimony of Lemar Roulhac at Trial</i> filed by Plaintiff USA. (Attachments: # <u>1</u> Exhibit 791, Lamar Roulhac CV, # <u>2</u> Exhibit Email chain between counsel ending in email dated March 27, 2018, # <u>3</u> Exhibit Email chain between counsel ending in email dated March 29, 2018, # <u>4</u> Exhibit United States' Witness List)(Hines, Erin) (Entered: 04/02/2018)</p>
04/02/2018	<u>367</u>	<p>PRETRIAL ORDER. Signed by Judge David Nuffer on 4/2/18 (alt) (Entered: 04/02/2018)</p>
04/02/2018	<u>368</u>	<p>MEMORANDUM in Opposition re <u>364</u> Defendant's MOTION in Limine and Memorandum in Support <i>MOTION IN LIMINE TO STRIKE PLAINTIFF'S SUMMARY EXHIBIT 752 (JOANNA PEREZ)</i> filed by Plaintiff USA. (Attachments: # <u>1</u> Exhibit 752)(Gallagher, Erin) (Entered: 04/02/2018)</p>
04/02/2018	<u>369</u>	<p>Defendant's MEMORANDUM <i>DEFENDANTS' MEMORANDUM REGARDING PLAINTIFF'S BURDEN UNDER 26 USC §§ 6700 AND 7408</i> filed by Roger Freeborn, International Automated Systems, Neldon Johnson, LTB1, RaPower–3, R. Gregory Shepard. (Snuffer, Denver) (Entered: 04/02/2018)</p>
04/02/2018	<u>370</u>	<p>MEMORANDUM in Opposition re <u>365</u> Defendant's MOTION in Limine and Memorandum in Support <i>DEFENDANTS' MOTION IN LIMINE TO STRIKE PLAINTIFF'S SUMMARY EXHIBIT 734, 735, 736, 737, 738, 739, 740, 741, 742(A), 742(B), AND 750 (AMANDA REINKEN)</i> filed by Plaintiff USA. (Attachments: # <u>1</u> Exhibit 734, Combined Gross Receipts, # <u>2</u> Exhibit 735, RaPower–3's Gross Receipts, # <u>3</u> Exhibit 736, R. Gregory Shepard's Gross</p>

		Receipts, # <u>4</u> Exhibit 737, Neldon Johnson's Gross Receipts, # <u>5</u> Exhibit 738, IAS's Gross Receipts, # <u>6</u> Exhibit 739, SOLCO I, LLC's Gross Receipts, # <u>7</u> Exhibit 740, XSun Energy, LLC's Gross Receipts, # <u>8</u> Exhibit 741, Cobblestone Centre, LLC's Gross Receipts, # <u>9</u> Exhibit Summary of October 2017 Spreadsheet of Lens Transactions, # <u>10</u> Exhibit Summary of February 2018 Spreadsheet of Lens Transactions, # <u>11</u> Exhibit Defendants' Supplemented Production of Documents)(Hines, Erin) (Entered: 04/02/2018)
04/02/2018	372	<p>Minute Entry for proceedings held before Judge David Nuffer: Bench Trial held on 4/2/2018.</p> <p>Counsel present for parties. Mr. Johnson, defendant, stated that he is pro se. Ms. Healy Gallagher responded that this is the first that they have heard of Mr. Johnson proceeding pro se. Discussion heard. Based on the record, court made findings on the record that Mr. Johnson is represented by Mr. Snuffer and his associates. Mr. Johnson maintains he would like to proceed pro se.</p> <p>Court has reviewed the pretrial order and will have it entered today. Court has reviewed a portion of the deposition designations in preparation of trial.</p> <p>Mr. Moran requested the admission of exhibits and provided a spreadsheet, with an approximation of 400 exhibits. Court instructed Mr. Moran to provide the lists to both the court and defendants counsel. Court will address after the lunch hour.</p> <p>Ms. Hines addressed the bank records exhibits and provided exhibit numbers. Court will review.</p> <p>Ms. Healy Gallagher addressed the outstanding motions in limine. Court has not yet had time to review the motions. Government would either file oppositions or argue, as the court directs. Court instructed responses by 6:00 p.m. today.</p> <p>Mr. Snuffer addressed the court on his concern re: preponderance of evidence to be clarified. Court instructed Mr. Snuffer to file a motion by 6:00 p.m. today. Response by 6:00 p.m. Tuesday.</p> <p>Mr. Snuffer then addressed the court on his concern with threshold questions. Court instructed Mr. Snuffer that this is untimely and should have been filed months prior to today.</p> <p>Government called Dr. Thomas Mancini. Witness sworn and testified. Ms. Healy Gallagher moved for the admission of Exhibit 754. Objection heard. Court received. Ms. Healy Gallagher moved for the admission of Exhibit 755. Objection heard. Court received. Ms. Healy Gallagher moved for the admission of Exhibit 757. No objection. Court received. Ms. Healy Gallagher moved for the admission of Exhibits 16 and 17. No objection. Court received. Ms. Healy Gallagher moved for the admission of Exhibit 559. No objection. Court received. Ms. Healy Gallagher moved for the admission of Exhibit 437. No objection. Court received. Ms. Healy Gallagher moved for the admission of Exhibit 562. No objection. Court received. Ms. Healy Gallagher moved for the admission of Exhibit 509, Video 12_4_00-4_23. No objection. Court received. Ms. Healy Gallagher moved for the admission of Exhibit 509, Video 12_4_38-5_15. No objection. Court received. Ms. Healy Gallagher moved for the admission of Exhibit 460. No objection. Ms. Healy Gallagher moved for the admission of Exhibit 509, Video 16_12_24-12_41. No objection. Court received. Ms. Healy Gallagher moved for the admission of Exhibit 509, Video 18_4_09-4_25. No objection. Court received. Mr. Snuffer moved for the admission of Exhibit 1500. Objection heard. Court instructed the exhibit needs more foundation. Mr. Snuffer moved to strike the testimony of Dr. Mancini.</p>

		<p>Court made findings on the record and denied the motion. Witness excused. Mr. Snuffer requested a clarification on how depositions and live testimony will work. Court informed counsel on how it intends to proceed with depositions and live testimony.</p> <p>Court printed out the annotated exhibits during Dr. Mancinis testimony. Counsel given an opportunity to review, then mark for identification. Ms. Healy Gallagher marked them with their exhibit numbers.</p> <p>Government exhibits with no objections discussed. Court received the identified exhibits. Ms. Healy Gallagher requested the exhibits identified for the record. Court instructed counsel that the spreadsheet will be identified as a court demonstrative exhibit #1.</p> <p>Ms. Healy Gallagher addressed the defendants amended witness list, specifically as to Mr. Peterson. Argument heard. Court took the matter under advisement. Mr. Snuffer to provide the court and government with proffer of testimony of Mr. Peterson, attaching exhibits he intends to use/rely by Wednesday, 4/4/2018 6:00 p.m.</p> <p>Court adjourned.</p> <p>Attorney for Plaintiff: Denver Snuffer, Daniel Garriott, Steven Paul, Joshua Egan, Attorney for Defendant: Erin Healy Gallagher, Christopher Moran, Erin Hines. Court Reporter: Becky Janke, Kelly Hicken.(Time Start: 8:32, Time End: 4:10, Room 3.100.)(asb) Modified on 4/3/2018 to correct date of hearing (asb). (Entered: 04/03/2018)</p>
04/03/2018	371	<p><b>DOCKET TEXT ORDER denying <u>362</u> Defendants' Motion in Limine to Limit the Testimony of Lemar Roulhoc. Even if Mr. Roulhoc were an expert under Rule 702, traditional disclosure was not required because his services were necessitated by Defendants' failure to comply with discovery until a very late date as cited in <u>329</u> at p. 6. Furthermore, after the final pre-trial conference when his deposition was permitted, Plaintiff attempted to make Mr. Roulhoc available, but Defendants failed to act with reasonable diligence to make arrangements to depose him. His testimony of data extraction is not unfair to Defendants. Defendants have complete control over the evidence about which he will be testifying, reducing the possibility of any prejudice. Signed by Judge David Nuffer on 04/03/2018. Docket Text Only. No attached document. (ms) (Entered: 04/03/2018)</b></p>
04/03/2018	373	<p><b>DOCKET TEXT ORDER – Regarding Defendants' Amended Witness List, specifically as to Mr. Gary Peterson. Defendants are to provide the court and Plaintiff with proffer of testimony of Mr. Peterson, attaching exhibits he intends to use and list of everything he intends to rely on by Wednesday, 4/4/2018 6:00 p.m. Plaintiff may file a response by Friday, 4/6/2018 6:00 p.m. Docket text only. No attached document. Signed by Judge David Nuffer on 04/03/2018. (ms) (Entered: 04/03/2018)</b></p>
04/03/2018	374	<p>Minute Entry for proceedings held before Judge David Nuffer: Bench Trial held on 4/3/2018.</p> <p>Counsel present for parties.</p> <p>Government called Cody Buck. Witness sworn and testified. Mr. Moran moved for the admission of Exhibit 371. No objection. Court received. Mr. Moran moved for the admission of Exhibit 533. No objection. Court received. Mr. Moran moved for the admission of Exhibit 92. Mr. Paul allowed to voir dire the witness. No objection. Court received. Witness excused.</p> <p>Government called Ken Overson. Witness sworn and testified. Mr. Moran</p>

		<p>moved for the admission of Exhibit 372. No objection. Court received. Court addressed the issue with objections to deposition exhibits. Government will provide a spreadsheet and depositions to the court.</p> <p>Discussion heard on deposition designations. Ms. Healy Gallagher provided Plaintiffs Exhibit 829, affidavit of non–appearance of Samuel Otto and moved for the admission. Mr. Paul requested additional time to review the exhibit before responding to the proposed admission.</p> <p>Mr. Overson returned to complete testimony. Witness excused.</p> <p>Court addressed the service issue. Ms. Healy Gallagher stated that the service issue was in their proposed findings and conclusions (pages 88–90).</p> <p>Government called Kenneth Birrell. Witness sworn and testified. Witness excused for the day and instructed to return 4/4/2018, at the time indicated by government counsel.</p> <p>Court will resume 4/4/2018 at 8:30 a.m.</p> <p>Court adjourned.</p> <p>Attorney for Plaintiff: Denver Snuffer, Daniel Garriott, Steven Paul, Joshua Egan, Attorney for Defendant: Erin Healy Gallagher, Christopher Moran, Erin Hines. Court Reporter: Kelly Hicken, Becky Janke.(Time Start: 8:32, Time End: 4:03, Room 3.100.)(asb) (Entered: 04/03/2018)</p>
04/03/2018	<u>375</u>	Burden of Proof BRIEF re <u>369</u> Memorandum (NOT to motion), filed by Plaintiff USA. (Gallagher, Erin) (Entered: 04/03/2018)
04/04/2018	376	<p><b>DOCKET TEXT ORDER denying Defendants' <u>364</u> Motion in Limine to Strike Plaintiff's Summary Exhibit 752 is DENIED for the following reasons: (1) The United States was not required to disclose the Excel spreadsheet Perez used to create her summary (Exhibit 752) because Defendants were given sufficient time to inspect the underlying documents, the tax returns (produced May 15, 2017, September 5, 2017, and September 15, 2017), and therefore, there is no reason to give the Defendants the benefit of Plaintiff's work product in preparing the spreadsheet. (2) These summaries qualify under Rule 1006. The admission of summaries under Rule 1006 is within the sound discretion of the court. (3) Exhibit 752 is not more prejudicial than probative and therefore does not violate Rule 403. Exhibit 752 adds substantial probative value, saves time and increases convenience by summarizing voluminous tax records. The Defendants may challenge Exhibit 752 on cross–examination. (4) Defendants failed to cite any case law to support their arguments of lack of relevance. (5) "Harm to the Treasury," depreciation expenses, and tax credits may be relevant to a proper measure of disgorgement. Signed by Judge David Nuffer on 04/04/2018. Docket text only. No attached document. (ms) (Entered: 04/04/2018)</b></p>
04/04/2018	377	<p><b>DOCKET TEXT ORDER – Defendants' <u>365</u> Motion in Limine to Strike Plaintiff's Summary Exhibits 734 – 741, 742(A), 742(B), and 750 ("Exhibits") is DENIED for the following reasons: (1) The United States was not required to disclose the Excel spreadsheet Reinken used to create her summaries in Exhibit 734 through 741 because Defendants were given sufficient time to inspect the underlying documents (the bank records) after they were produced March 30, 2017, and therefore, there is no reason to give the Defendants the benefit of Plaintiff's work product in preparing the spreadsheet. (2) The admission of these summaries which qualify under Rule 1006 is within the sound discretion of the court. (3) The Exhibits are far more probative than prejudicial and therefore do not violate Rule 403. The Exhibits add substantial</b></p>

		<p>probative value by summarizing voluminous bank records, saving time and increasing convenience. Defendants may challenge the Exhibits' on cross-examination. (4) Defendants failed to cite any case law to support their arguments. (5) Plaintiff indicates it no longer intends to offer Pl. Ex. 750. (6) The format conversion issue related to Exhibits 742A and 742B was caused by Defendants' form of production of their database in a non-native format. (7) The lack of information about amounts paid for lenses in Exhibits 742A and 742B is due to the non-production of that data from Defendants. (8) Defendants have been free to prepare their own summaries from the bank records and from their database. Signed by Judge David Nuffer on 04/04/2018. Docket text only. No attached document. (ms) (Entered: 04/04/2018)</p>
04/04/2018	378	<p>Minute Entry for proceedings held before Judge David Nuffer: Bench Trial held on 4/4/2018.</p> <p>Counsel present for parties. Government addressed the trade or other business, and placed in service. Government requested to brief the issue. Defendants response on the issues due Friday, 4/13/2018 1:00 p.m., not to exceed 20 pages. Government reply due 4/20/2018.</p> <p>authenticity issues of the affidavit of non-appearance of Samuel Otto. Mr. Snuffer accepted the authentication of the affidavit and exhibits. Exhibits authenticated, but not yet admitted for the record are 168, 169, 170, 171, 172, 173, 174, 175, 176, 177, 178, 179, and 30.</p> <p>Mr. Snuffer addressed the issue as to their expert designation deadline of 9/15/2017, therefore, he would have been able to obtain a qualified expert. Government responded. Courts prior ruling still stands.</p> <p>Government called Todd Anderson. Witness sworn and testified. Ms. Healy Gallagher moved for the admission of Exhibit 480. Objection heard. Court received. Witness excused.</p> <p>Government called Jessica Anderson. Witness sworn and testified. Ms. Healy Gallagher moved for the admission of Exhibit 574. No objection. Court received. Ms. Healy Gallagher moved for the admission of Exhibit 575. No objection. Court received. Ms. Healy Gallagher moved for the admission of Exhibit 23A. Objection heard. Court received. Court requested that Exhibit 582 be admitted. No objections. Court received. Court requested that the defendants mark and admit Ms. Andersons timekeeping records. Discussion heard. Exhibit marked 1519. Court received. Witness excused.</p> <p>Mr. Birrell returned to complete testimony. Mr. Paul used Plaintiff Exhibit 360. The exhibit has not been identified nor provided by either plaintiff nor defendant for trial purposes. Discussion heard on Exhibit 360. Mr. Paul moved for the admission of Exhibit 360. Objection heard. Court did not receive. Court instructed counsel to provide a copy of Exhibit 360 for court records. Witness excused.</p> <p>Court will resume 4/5/2018 at 8:30 a.m.</p> <p>Court adjourned.</p> <p>Attorney for Plaintiff: Denver Snuffer, Daniel Garriott, Steven Paul, Joshua Egan, Attorney for Defendant: Erin Healy Gallagher, Christopher Moran, Erin Hines. Court Reporter: Kelly Hicken, Becky Janke.(Time Start: 8:31, Time End: 4:17, Room 3.100.)(asb) (Entered: 04/04/2018)</p>
04/04/2018	<u>379</u>	<p>Defendant's MEMORANDUM re 373 Order, <i>Gary Peterson's Proffer of Testimony and Documents Upon Which He Will Rely</i> filed by International Automated Systems, Neldon Johnson, LTB1, RaPower-3, R. Gregory</p>

		Shepard. (Attachments: # <u>1</u> Exhibit IAS 10–K 2009, # <u>2</u> Exhibit IAS 10–K 2016, # <u>3</u> Exhibit IAS 10–K 2014, # <u>4</u> Exhibit IAS 10–K 2017, # <u>5</u> Exhibit IAS 10–K 2010)(Snuffer, Denver) (Entered: 04/04/2018)
04/05/2018	380	<p>Minute Entry for proceedings held before Judge David Nuffer: Bench Trial held on 4/5/2018.</p> <p>Counsel present for parties. Government moved for the admission of the exhibits noted in Samuel Ottos affidavit, which are identified as 30,168, 169, 170, 171, 172, 173, 175. No objections. Court received. Government has a number of exhibits that need redaction. Once they are completed, will submit to the court.</p> <p>Government called Lamar Roulhac. Witness sworn and testified. Ms. Healy Gallagher moved for the admission to Exhibit 831. No objection. Court received. Ms. Healy Gallagher moved for the admission to Exhibit 749. Objection heard. Court received. Witness excused.</p> <p>Government called JoAnna Perez. Witness sworn and testified. Ms. Hines moved for the admission of Exhibits 123 and 752. No objection to Exhibit 123. Court received. Objection heard on Exhibit 752. Government responded. Court received Exhibit 752. Witness excused.</p> <p>Court addressed Exhibit 829 and if the government wanted it received. At this time, government does not request its admission. Court requested that Exhibit 347 be emailed. Court instructed government to review Exhibits 349, 464 and 535, which were identified in depositions. Government will review to see if they need to move for admission. The screenshots of RaPower–3 website, Governments Exhibit 832. Mr. Paul provided the court with a complete 2–page screenshot. Government does not object to marking the 2–pages as Exhibit 832A. Court received.</p> <p>Government called Amanda Reinken. Witness sworn and testified. Ms. Hines moved for the admission of Exhibits 714 thru 733. No objection. Court received. Ms. Hines moved for the admission of Exhibit 796. No objection. Court received. Ms. Hines moved for the admission of Exhibit 742A. No objection. Court received. Ms. Hines moved for the admission of Exhibit 742B. No objection. Court received. Ms. Hines moved for the admission of Exhibit 735. No objection. Court received. Ms. Hines moved for the admission of Exhibit 738. No objection. Court received. Ms. Hines moved for the admission of Exhibit 739. No objection. Court received. Ms. Hines moved for the admission of Exhibit 740. Objection heard. Court received. Ms. Hines moved for the admission of Exhibit 741. No objection. Court received. Court received. Ms. Hines moved for the admission of Exhibit 737. No objection. Court received. Court received. Ms. Hines moved for the admission of Exhibit 769. Objection heard. Court received. Witness excused.</p> <p>Argument heard on damages.</p> <p>Government called Robert Rowbotham. Witness sworn and testified. Mr. Moran moved for the admission of Exhibit 94. No objection. Court received. Mr. Moran moved for the admission of Exhibit 95. No objection. Court received. Mr. Moran moved for the admission of Exhibit 91. No objection. Court received. Mr. Moran moved for the admission of Exhibit 93. No objection. Court received.</p> <p>Government addressed Deposition Exhibits 349, 465, 535. Government laid foundation through argument. Mr. Snuffer would like time to review the exhibits before responding. Court will rule on the exhibits after Mr. Snuffer informs the court of their response.</p>

		<p>Court will resume with trial on Thursday, 4/19/2018 at 8:30 a.m. Court adjourned. Attorney for Plaintiff: Erin Healy Gallagher, Christopher Moran, Erin Hines, Attorney for Defendant: Denver Snuffer, Daniel Garriott, Steven Paul, Joshua Egan. Court Reporter: Kelly Hicken, Becky Janke.(Time Start: 8:32, Time End: 4:19, Room 3.100.)(asb) (Entered: 04/05/2018)</p>
04/06/2018	<u>381</u>	<p>RESPONSE re <u>379</u> Memorandum (NOT to motion),, <i>Defendants' proffer of Gary Peterson</i> filed by USA. (Attachments: # <u>1</u> Exhibit 449, IAS Supplemental Responses to US First Interrogatories, # <u>2</u> Exhibit 450, RaPower-3 Supplemental Responses to US First Interrogatories, # <u>3</u> Exhibit 451, Neldon Johnson Supplemental Responses to US First Interrogatories, # <u>4</u> Exhibit 452, LTB1 Supplemental Responses to US First Interrogatories, # <u>5</u> Exhibit 789, Defendants' Supplemented Production of Documents, # <u>6</u> Exhibit 833, Defendants' Joint Initial Disclosures)(Gallagher, Erin) (Entered: 04/06/2018)</p>
04/10/2018	382	<p><b>Docket Text Order – On March 30, 2018, Defendants amended their witness list to include Gary Peterson, the defendant companies' accountant. Pursuant to Rule 26(a), Defendants failed to timely disclose Gary Peterson. He is a witness whose necessity should have been known from the filing of the complaint, as his testimony bears on the issue of disgorgement. The court has broad discretion in determining whether a Rule 26(a) violation is justified or harmless.</b></p> <p><b>Mr. Peterson should not testify, in light of the four factors in <i>Woodworker's Supply, Inc. v. Principal Mut. Life Ins. Co.</i>, 170 F.3d 985, 993 (10th Cir. 1999):</b></p> <p><b>(1) Offering a new witness the Friday preceding a Monday trial start date undoubtedly was a surprise to Plaintiffs and his testimony would prejudice Plaintiffs as they relied on Defendants previous disclosures and discovery responses to prepare for trial.</b></p> <p><b>(2) Plaintiff has already prepared for trial based on Defendants disclosures and discovery responses. Had Defendants timely disclosed Mr. Peterson, Plaintiffs would have had time to adequately prepare for trial taking into account his testimony. Defendants are unable to cure this prejudice.</b></p> <p><b>(3) This is a 10–day bench trial spread across a 4–week time frame. This case in the midst of trial. The remaining six days of trial resume on April 19, 2018. At such a late date, adding another witness would disrupt trial.</b></p> <p><b>(4) Defendants did not include Mr. Peterson in their initial disclosures, nor did they supplement their initial disclosures, nor did they otherwise make Mr. Peterson or his testimony known to Plaintiff during the discovery process or in writing prior to March 30, 2018.</b></p> <p><b>Defendants witness Gary Peterson will not be permitted to testify.</b></p> <p><b>Docket text only. No attached document. Signed by Judge David Nuffer on 04/10/2018. (ms) (Entered: 04/10/2018)</b></p>
04/11/2018	383	<p><b><u>UPDATED BENCH TRIAL SCHEDULE:</u></b></p> <p>Bench Trial set for Thursday, 4/19/2018 at 08:00 AM – 02:30 PM in Rm 3.100 before Judge David Nuffer.</p> <p>Bench Trial set for Friday, 4/20/2018 at 08:30 AM –04:00 PM in Rm 3.100 before Judge David Nuffer.</p>

		<p>Bench Trial set for Monday, 4/23/2018 at 08:00 AM – 02:00 PM in Rm 3.100 before Judge David Nuffer.</p> <p>Bench Trial set for Tuesday, 4/24/2018 at 08:00 AM – 02:30 PM in Rm 3.100 before Judge David Nuffer.</p> <p>Bench Trial set for Wednesday, 4/25/2018 at 08:30 AM – 04:00 PM in Rm 3.100 before Judge David Nuffer.</p> <p>Bench Trial set for Thursday, 4/26/2018 at 08:30 AM – 04:00 PM in Rm 3.100 before Judge David Nuffer.</p> <p>Bench Trial set for Monday, 5/14/2018 at 08:00 AM – 02:00 PM in Rm 3.100 before Judge David Nuffer.</p> <p>Bench Trial tentatively set for Tuesday, 5/15/2018 at 08:30 AM – 04:00 PM in Rm 3.100 before Judge David Nuffer. (5/15/2018 is for any additional argument necessary to complete the trial. Counsel are to pencil in the date) (asb) (Entered: 04/11/2018)</p>
04/13/2018	<u>384</u>	<p>MEMORANDUM <i>re "placed in service" and "used in trade or business"</i> filed by International Automated Systems, Neldon Johnson, LTB1, RaPower-3, R. Gregory Shepard. (Attachments: # <u>1</u> Exhibit Trial Testimony Excerpts of Mr. Robert Rowbotham)(Snuffer, Denver) Modified on 5/31/2018: corrected text (alt) (Entered: 04/13/2018)</p>
04/18/2018	385	<p><b><u>UPDATED BENCH TRIAL SCHEDULE:</u></b></p> <p>Bench Trial set for Thursday, 4/19/2018 at 08:00 AM – 04:00 PM in Rm 3.100 before Judge David Nuffer.</p> <p>Bench Trial set for Friday, 4/20/2018 at 08:30 AM – 04:00 PM in Rm 3.100 before Judge David Nuffer.</p> <p>Bench Trial set for Monday, 4/23/2018 at 08:00 AM – 02:00 PM in Rm 3.100 before Judge David Nuffer.</p> <p>Bench Trial set for Tuesday, 4/24/2018 at 08:00 AM – 02:30 PM in Rm 3.100 before Judge David Nuffer.</p> <p>Bench Trial set for Wednesday, 4/25/2018 at 08:30 AM – 04:00 PM in Rm 3.100 before Judge David Nuffer.</p> <p>Bench Trial set for Thursday, 4/26/2018 at 08:30 AM – 04:00 PM in Rm 3.100 before Judge David Nuffer.</p> <p>Bench Trial set for Monday, 5/14/2018 at 08:00 AM – 02:00 PM in Rm 3.100 before Judge David Nuffer.</p> <p>Bench Trial set for Tuesday, 5/15/2018 at 08:30 AM – 04:00 PM in Rm 3.100 before Judge David Nuffer. (5/15/2018 is for any additional argument</p>



		necessary to complete the trial. Counsel are to pencil in the date) (asb) (Entered: 04/18/2018)
04/19/2018	386	<p>Minute Entry for proceedings held before Judge David Nuffer: Bench Trial held on 4/19/2018.</p> <p>Counsel present for parties. Court informed counsel that all depositions have now been read. Ms. Healy Gallagher provided additional exhibits, including redactions, to court and opposing counsel this morning.</p> <p>Ms. Healy Gallagher clarified for the record errors of minute entries: /4/2018 Exhibits 380 123 should be 132 and Exhibits 769 should be 796; 4/5/2018 Exhibit 669 moved into evidence and was admitted. ME does not note the admission. Court made the identified corrections.</p> <p>Government offered Exhibits 509 Video 12_4_00-4_23A, 509 Video 12_4_38-5_15A, 509 Video 12_4_38-5_15B, and 562A. Court received. The government list for deposition exhibits where no objections has been marked as Court Exhibit 2.</p> <p>Court will discuss Exhibits 349, 465, 535 at a break between testimony.</p> <p>Ms. Hines called Lynette Williams. Witness sworn and testified.</p> <p>Mr. Moran called Preston Olsen. Witness sworn and testified. Mr. Moran moved for the admission of Exhibit 134. Objection heard. Court received. Mr. Moran moved for the admission of Exhibit 135. No objection. Court received. Mr. Moran moved for the admission of Exhibit 141. Objection heard. Court received. Mr. Moran moved for the admission of Exhibit 147. No objection. Court received. Mr. Moran moved for the admission of Exhibit 158. Objection heard. Court received. Mr. Moran moved for the admission of Exhibit 142. Objection heard. Court received. Mr. Moran moved for the admission of Exhibits 127, 128, 129, and 130. Objections heard. Court received. Mr. Paul moved for the admission of Exhibit 1500. Objection heard. Court received. Witness excused.</p> <p>Court will resume with trial on Friday, 4/20/2018 at 8:30 a.m. Court adjourned.</p> <p>Attorney for Plaintiff: Erin Healy Gallagher, Christopher Moran, Erin Hines, Attorney for Defendant: Denver Snuffer, Daniel Garriott, Steven Paul, Joshua Egan. Court Reporter: Kelly Hicken, Becky Janke, Laura Robinson.(Time Start: 8:00, Time End: 3:35, Room 3.100.)(asb) (Entered: 04/19/2018)</p>
04/20/2018	<u>387</u>	<p>regarding "trade or business" and "placed in service" BRIEF re <u>384</u> Memorandum (NOT to motion), 378 Bench Trial – Held,,,,,, filed by Plaintiff USA. (Attachments: # <u>1</u> Exhibit Pl. Ex. 534, placed in service letters, # <u>2</u> Exhibit Pl. Ex. 546, placed in service letters, # <u>3</u> Exhibit Pl. Ex. 547, overview of the placed in service letter, # <u>4</u> Exhibit Excerpts of Trial Transcript)(Gallagher, Erin) (Entered: 04/20/2018)</p>
04/20/2018	388	<p>Minute Entry for proceedings held before Judge David Nuffer: Bench Trial held on 4/20/2018.</p> <p>Counsel present for parties. Ms. Healy Gallagher addressed the exhibits that are similar to Exhibit 158.</p> <p>Ms. Healy Gallagher moved for the admission of deposition designation form Exhibits 197, 334, 483, 504, 526, 581, 530, 544, 545, 550, 554, 589, and 590, which were not identified in Court Exhibit 2. Court will review the exhibits and rule on the admission at a later time.</p> <p>Ms. Healy Gallagher moved to admit Exhibits 413, 414, 415, 416, 668. Mr. Snuffer responded if incomplete, then they object. However, if complete, then</p>

no objections. Court gave defense counsel the weekend to review the exhibits and formally respond on Monday, April 23, 2018.

Ms. Healy Gallagher moved for the admission of Exhibit 790. No objection. Court received.

Ms. Healy Gallagher moved to admit the deposition designations Exhibits 448, 579, 581, 673, 681, 682, 683, 685, 687, 688, 689, 690, 693, 697, 713. Court received.

Court ruling on the following exhibits:

Exhibit 349 not received.

Court received Exhibit 465 for limited purpose of showing the use of unsigned documentation, but otherwise not received.

Court deferred ruling on Exhibit 535.

Ms. Hines called Richard Jameson. Witness sworn and testified. Ms. Hines moved to admit Exhibit 865. Objections heard. Court received. Ms. Hines moved to admit Exhibit 637. No objection. Court received. Witness excused for the day, subject to recall by Mr. Snuffer.

Mr. Moran called Matthew Shepard. Witness sworn and testified. Mr. Moran moved for the admission of Exhibit 438. No objection. Court received. Mr. Moran moved for the admission of Exhibit 424. No objection. Court received.

Mr. Moran moved for the admission of Exhibit 426. No objection. Court received. Mr. Moran moved for the admission of Exhibit 417. No objection.

Court received. Mr. Moran moved for the admission of Exhibit 427. No objection. Court received. Mr. Moran moved for the admission of Exhibit 428.

No objection. Court received. Mr. Moran moved for the admission of Exhibit 441. No objection. Court received. Mr. Moran moved for the admission of

Exhibit 547. No objection. Court received. Mr. Moran moved for the admission of Exhibit 351. No objection. Court received. Mr. Moran moved for the admission of Exhibit 679. No objection. Court received. Mr. Moran moved

for the admission of Exhibit 680. No objection. Court received. Mr. Moran moved for the admission of Exhibit 433. No objection. Court received. Mr. Moran moved for the admission of Exhibit 417. No objection. Court received.

Mr. Moran moved for the admission of Exhibit 434. No objection. Court received. Direct finished. Cross examination will begin Monday, April 23, 2018 at 8:00 a.m.

Court will email the exhibit lists for government to amend the descriptions of exhibits, adding dates and descriptions. Counsel to make no other edits. Court instructed counsel to email PDFs of exhibits the court has not yet received.

Discussion heard on witness schedule. Government to provide a list of exhibits to be used on upcoming witnesses to defendants counsel.

Mr. Snuffer addressed the deposition designations and upcoming testimony. Ms. Healy Gallagher responded.

Mr. Snuffer informed the court that he is not available on May 15, 2018 for any additional argument. Court inquired if counsels schedules allow for time the week of May 21, 2018 and May 29, 2018. Counsel responded. Counsel may have the week of May 29, 2018 available. Court instructed counsel to pencil in that week.

Court recessed until Monday, 4/23/2018 at 8:00 a.m.

Attorney for Plaintiff: Erin Healy Gallagher, Christopher Moran, Erin Hines, Attorney for Defendant: Denver Snuffer, Daniel Garriott, Steven Paul, Joshua Egan. Court Reporter: Kelly Hicken, Becky Janke, Laura Robinson.(Time Start: 8:33, Time End: 4:11, Room 3.100.)(asb) (Entered: 04/20/2018)

04/23/2018	<u>389</u>	DOCUMENTS LODGED consisting of 2018 April 20 Email from Erin Healy Gallagher re: Exhibits. Note: attached document lodged for reference purposes only; no response required unless specifically ordered by the court. (asb) (Entered: 04/23/2018)
04/23/2018	<u>390</u>	DOCUMENTS LODGED consisting of 2018 April 22 Email from Erin Healy Gallagher re: Exhibits.. Note: attached document lodged for reference purposes only; no response required unless specifically ordered by the court. (asb) (Entered: 04/23/2018)
04/23/2018	391	<p>Minute Entry for proceedings held before Judge David Nuffer: Bench Trial held on 4/23/2018.</p> <p>Counsel present for parties. Ms. Healy Gallagher stated that the government is not available to week of May 29, 2018. Mr. Snuffer is not available May 15, 2018. Mr. Snuffer is available May 21 and 25, 2018. Ms. Healy Gallagher will check their schedules.</p> <p>Exhibits discussed. Mr. Snuffer had no objections to Exhibits 413, 414, 415, 416 and 668 (unredacted). Court received. The deposition designation list, Exhibits 448, 579, 581, 673, 681, 682, 683, 685, 687, 688, 689, 690, 693, 697, 713 were received on Friday, 4/20/2018 and received again today.</p> <p>Mr. Snuffer had no objections to Exhibits 197, 334, 483 (without handwriting), 504, 526, 530, 544, 550, 554. Court received. Mr. Snuffer objected to 545, 589, 590. Court reserved ruling on 545, 589. 590.</p> <p>Court received Exhibits 114A, 150A and 1500A, which are screenshots of video clips shown during trial testimony.</p> <p>Court received the exhibits on Court Exhibit #2. The exhibit list will be updated to include those exhibits as received. Court will review the 4/22/2018 email from Ms. Healy Gallagher, paragraphs 2–4, that notes the court received exhibit, however, were not noted on the exhibit list. Court will review the transcripts and minute entries and make appropriate changes.</p> <p>Mr. Matthew Shepard returned to complete testimony. Mr. Moran moved for the admission of Exhibit 903. No objection. Court received. Witness excused. Court confirmed the exhibits in the 4/22/2018 email from Ms. Healy Gallagher were received. Identified exhibits are now shown as received on the exhibit list.</p> <p>Mr. Moran called Gregory Shepard. Witness sworn and testified. Mr. Moran moved for the admission of Exhibits 435, 469, 553. No objection. Exhibit received. Mr. Paul moved for the admission of Exhibit 22. Objection heard. Court deferred ruling. Witness instructed to return Tuesday, 4/24/2018 at 8:00 a.m. to continue with testimony.</p> <p>Court adjourned.</p> <p>Attorney for Plaintiff: Erin Healy Gallagher, Christopher Moran, Erin Hines, Attorney for Defendant: Denver Snuffer, Daniel Garriott, Steven Paul, Joshua Egan. Court Reporter: Kelly Hicken, Becky Janke, Laura Robinson.(Time Start: 8:03, Time End: 2:46, Room 3.100.)(asb) (Entered: 04/23/2018)</p>
04/24/2018		<p><b><u>BENCH TRIAL UPDATED SCHEDULE:</u></b></p> <p>Bench Trial set for 4/24/2018 at 08:00 AM – 03:15 PM in Rm 3.100 before Judge David Nuffer.</p> <p>Bench Trial set for 4/25/2018 at 08:00 AM – 04:00 PM in Rm 3.100 before Judge David Nuffer.</p>

		<p>Bench Trial set for 4/26/2018 at 08:00 AM – 04:00 PM in Rm 3.100 before Judge David Nuffer.</p> <p>Bench Trial set for 5/14/2018 at 08:00 AM – 02:00 PM in Rm 3.100 before Judge David Nuffer.</p> <p>Bench Trial set for 6/25/2018 at 08:00 AM – 04:00 PM in Rm 3.100 before Judge David Nuffer.</p> <p>Bench Trial set for 6/26/2018 at 08:00 AM – 04:00 PM in Rm 3.100 before Judge David Nuffer.</p> <p>Bench Trial set for 6/27/2018 at 08:00 AM – 04:00 PM in Rm 3.100 before Judge David Nuffer.</p> <p>Bench Trial set for 6/28/2018 at 08:00 AM – 04:00 PM in Rm 3.100 before Judge David Nuffer.</p> <p>Bench Trial set for 6/29/2018 at 08:00 AM – 04:00 PM in Rm 3.100 before Judge David Nuffer. (asb) (Entered: 04/24/2018)</p>
04/24/2018	392	<p>Minute Entry for proceedings held before Judge David Nuffer: Bench Trial held on 4/24/2018.</p> <p>Counsel present for parties. Ms. Healy Gallagher stated that they have penciled in June 25–29, 2018. Ms. Healy Gallagher addressed Exhibits 589 and 590. Court will review the associated documents to rule on Exhibits 589 and 590. Discussion heard on Exhibit 545. Objection heard. Court received 545. Mr. Gregory Shepard returned to complete testimony. Mr. Paul moved for the admission of Exhibit 22. Court deferred ruling until the exhibit has been reviewed.</p> <p>Exhibit 22 discussed. Court received.</p> <p>Ms. Healy Gallagher addressed the outstanding motion in limine <u>249</u> . Court received 589 and 590.</p> <p>Ms. Healy Gallagher called Neldon Johnson. Witness sworn and testified. Mr. Snuffer had no objection to the use and admission of Exhibit 901. Court received. Ms. Healy Gallagher moved for the admission of Exhibits 780 and 781. Objection heard. Court received. Ms. Healy Gallagher moved for the admission of Exhibit 852. Objection heard. Court received.</p> <p>Court will resume Wednesday, 4/25/2018 at 8:00 a.m.</p> <p>Court adjourned.</p> <p>Attorney for Plaintiff: Erin Healy Gallagher, Christopher Moran, Erin Hines, Attorney for Defendant: Denver Snuffer, Daniel Garriott, Steven Paul, Joshua Egan. Court Reporter: Kelly Hicken, Becky Janke, Laura Robinson.(Time Start: 8:06, Time End: 3:06, Room 3.100.)(asb) (Entered: 04/24/2018)</p>
04/25/2018	393	<p>Minute Entry for proceedings held before Judge David Nuffer: Bench Trial held on 4/25/2018.</p> <p>Counsel present for parties. No preliminary matters to be discussed. Mr. Johnson returned to complete testimony. Government objects to the use of Exhibit 16A with Mr. Johnson for his lack of personal knowledge on technical details. Otherwise, no objection to use as to marketing. Court struck Mr.</p>

		<p>Johnsons testimony from 9:42:38 9:51:02. Court made findings on the record and will not allow Mr. Johnson to testify that he has engaged experts or procured the information outlined in these areas that incorporate expert reporting by reference. Mr. Johnson cannot leverage Exhibit 16A to be anything for than a marketing of white paper turned into expert testimony. Mr. Snuffer moved for the admission of Exhibit 513. Objection heard. Court received. Mr. Snuffer moved for the admission of Exhibit 536. No objection. Exhibit received. Ms. Healy Gallagher made several objections during testimony, which the court held.</p> <p>Court to resume Thursday, 4/26/2018 at 8:00 a.m. Court adjourned.</p> <p>Attorney for Plaintiff: Erin Healy Gallagher, Christopher Moran, Erin Hines, Attorney for Defendant: Denver Snuffer, Daniel Garriott, Steven Paul, Joshua Egan. Court Reporter: Kelly Hicken, Becky Janke, Laura Robinson.(Time Start: 8:14, Time End: 4:22, Room 3.100.)(asb) (Entered: 04/25/2018)</p>
04/26/2018	396	<p>Minute Order. Proceedings held before Judge David Nuffer: granting <u>249</u> Motion in Limine; granting <u>250</u> Motion in Limine; Bench Trial held on 4/26/2018.</p> <p>Counsel present for parties. Mr. Snuffer addressed the submitted Exhibits 1523, 1524, 1525 (unedited. Edited version is Exhibit 536) and 1526. Mr. Paul to email Exhibit 536. Ms. Healy Gallagher addressed the submitted Exhibits 904 and 905.</p> <p>Mr. Johnson returned to continue with testimony. Ms. Healy Gallagher made objections to testimony, which the court held for ruling.</p> <p>Court grants all reserved objections and motions to strike on the basis of foundation and Rule 702. Court made findings on the record regarding proposed defense experts. Mr. Johnsons testimony under Rule 702 is unacceptable. He claims qualifications and endorsements without any proof other than patents. Mr. Johnsons testimony will not help the trier of the fact to understand the evidence to determine a fact in issue, because he has shown that this testimony is not based on sufficient facts or data at least that are verifiable by the Court. Court grants all reserved objections and motions to strike on the basis of foundation and Rule 702. Mr. Johnson is nearly incapable of answering a question and when he does, he offers confusing nonresponsive disconnect answers. Court cannot accept that Mr. Johnson has qualifications necessary to testify as to anything that requires a basis under Rule 702 (see transcript for full findings and ruling).</p> <p>Court clarified for and made findings on the record ruling on Hawes, Jameson. Court granted motions in limine <u>249</u> to exclude expert testimony of Kurt Hawes and Richard Jameson and <u>250</u> to exclude expert testimony of Neldon Johnson.</p> <p>Mr. Johnson returned to complete testimony. Ms. Healy Gallagher made objections to testimony. Court granted the objections.</p> <p>Discussion heard on scheduling. Court would like to finish with Mr. Johnson in the governments case in chief. The CSOs report that they will be prepared to stay as last as necessary this evening.</p> <p>Ms. Healy Gallagher discussed Exhibits 904 and 905. Argument heard on the related government objections and motion to strike Mr. Johnsons testimony. Court did not strike the testimony from the record.</p> <p>Ms. Healy Gallagher moved for the admission of Exhibit 789. No objection. Court received.</p> <p>Mr. Johnson returned to continue with testimony. Ms. Healy Gallagher moved</p>

		<p>for the admission of Exhibit 907. Discussion heard. Court denied. Witness excused for the day.</p> <p>Plaintiff rests.</p> <p>Mr. Snuffer moved to dismiss the case under Rule 52(c). Argument heard. Ms. Healy Gallagher to submit her PowerPoint presentation to the court in native format. Court adjourned.</p> <p>Attorney for Plaintiff: Erin Healy Gallagher, Christopher Moran, Erin Hines, Attorney for Defendant Denver Snuffer, Daniel Garriott, Steven Paul, Joshua Egan. Court Reporter: Kelly Hicken, Becky Janke. (Time Start: 8:04, Time End: 7:50, Room 3.100.) (asb) (Entered: 05/03/2018)</p>
04/27/2018	<u>394</u>	<p>Defendant's MOTION to Dismiss <i>Pursuant to Rule 52(c)</i> filed by Defendants International Automated Systems, Neldon Johnson, LTB1, RaPower-3, R. Gregory Shepard. (Attachments: # <u>1</u> Argument)(Garriott, Daniel) (Entered: 04/27/2018)</p>
04/27/2018		<p><b><u>BENCH TRIAL UPDATED SCHEDULE:</u></b></p> <p>Bench Trial set for 6/21/2018 at 08:00 AM – 04:00 PM in Rm 3.100 before Judge David Nuffer.</p> <p>Bench Trial set for 6/22/2018 at 08:00 AM – 04:00 PM in Rm 3.100 before Judge David Nuffer.</p> <p>Bench Trial set for 6/25/2018 at 08:00 AM – 04:00 PM in Rm 3.100 before Judge David Nuffer.</p> <p>Bench Trial set for 6/26/2018 at 08:00 AM – 04:00 PM in Rm 3.100 before Judge David Nuffer.</p> <p>Bench Trial set for 6/27/2018 at 08:00 AM – 04:00 PM in Rm 3.100 before Judge David Nuffer.</p> <p>Bench Trial set for 6/28/2018 at 08:00 AM – 04:00 PM in Rm 3.100 before Judge David Nuffer.</p> <p>Bench Trial set for 6/29/2018 at 08:00 AM – 04:00 PM in Rm 3.100 before Judge David Nuffer. (asb) (Entered: 04/27/2018)</p>
04/27/2018	<u>395</u>	<p>RESPONSE to Motion re <u>394</u> Defendant's MOTION to Dismiss <i>Pursuant to Rule 52(c) in Opposition</i> filed by Plaintiff USA. (Attachments: # <u>1</u> Argument Presentation)(Hines, Erin) (Entered: 04/27/2018)</p>
05/29/2018	<u>397</u>	<p>MOTION for Payment and Memorandum in Support <i>re costs of enforcing discovery orders</i> filed by Plaintiff USA. (Attachments: # <u>1</u> Exhibit Pl. Ex. 908, # <u>2</u> Text of Proposed Order) Motions referred to Evelyn J. Furse.(Gallagher, Erin) Modified on 6/7/2018: corrected motion relief (alt) (Entered: 05/29/2018)</p>
05/30/2018	398	<p>SEE 399 FOR CORRECT ORDER – <del>DOCKET TEXT ORDER denying <u>394</u> Motion to Dismiss. After review of the documentation submitted by counsel and notes from the trial as well as portions of the transcripts the motion is denied subject to renewal as a 50b motion. Signed by Judge David Nuffer on</del></p>

		<del>05/30/2018. Docket Text Only. No attached document. (ms)</del> Modified on 5/31/2018: struck out text per chambers entry of corrected DTO (alt) (Entered: 05/30/2018)
05/31/2018	<u>399</u>	<p><b>AMENDED DOCKET TEXT ORDER</b> deferring ruling on <u>394</u> . This DTO corrects and amends 398 DTO.</p> <p>The Motion to Dismiss <u>394</u> is deferred. After review of the documentation submitted by counsel and notes from the trial as well as portions of the transcripts the court declines to render any judgment until the close of the evidence. Signed by Judge David Nuffer on 05/31/2018. Docket text only. No attached document.(ms) (Entered: 05/31/2018)</p>
06/07/2018	<u>400</u>	<b>ORDER</b> granting <u>397</u> Motion for Payment of costs of enforcing discovery orders in the amount of \$16,195.26. Signed by Magistrate Judge Evelyn J. Furse on 6/7/18 (alt) (Entered: 06/07/2018)
06/12/2018	<u>401</u>	Defendant's MOTION for Judgment as a Matter of Law and Memorandum in Support <i>No Fraudulent Tax Scheme</i> filed by Defendants Roger Freeborn, International Automated Systems, Neldon Johnson, LTB1, RaPower-3, R. Gregory Shepard. (Snuffer, Denver) (Entered: 06/12/2018)
06/13/2018	402	<b>DOCKET TEXT ORDER</b> deferring ruling on <u>401</u> Motion for Judgment as a Matter of Law. After review of the documentation submitted by counsel and notes from the trial as well as portions of the transcripts the court declines to render any judgment until the close of the evidence. Signed by Judge David Nuffer on 06/13/2018. Docket text only. No attached document. (ms) (Entered: 06/13/2018)
06/15/2018	<u>403</u>	MOTION to Continue trial and Memorandum in Support <i>on the Basis of Litigant's Health</i> filed by Defendants International Automated Systems, Neldon Johnson, LTB1, RaPower-3, R. Gregory Shepard. Motions referred to Evelyn J. Furse.(Paul, Steven) (Entered: 06/15/2018)
06/15/2018	<u>404</u>	RESPONSE to Motion re <u>403</u> MOTION to Continue trial and Memorandum in Support <i>on the Basis of Litigant's Health</i> filed by Plaintiff USA. (Attachments: # <u>1</u> Exhibit Pl. Ex. 912, Email from Mr. Snuffer re. Witness Order)(Moran, Christopher) (Entered: 06/15/2018)
06/15/2018	<u>405</u>	REPLY to Response to Motion re <u>403</u> MOTION to Continue trial and Memorandum in Support <i>on the Basis of Litigant's Health</i> filed by Defendants International Automated Systems, Neldon Johnson, LTB1, RaPower-3, R. Gregory Shepard. (Paul, Steven) (Entered: 06/15/2018)
06/18/2018	<u>406</u>	EXHIBITS filed by International Automated Systems, Neldon Johnson, LTB1, RaPower-3, R. Gregory Shepard re <u>405</u> Reply Memorandum/Reply to Response to Motion,. (Snuffer, Denver) (Entered: 06/18/2018)
06/18/2018	<u>407</u>	<b>MEMORANDUM DECISION AND ORDER</b> denying <u>403</u> Motion to Continue Jury Trial. Signed by Judge David Nuffer on 6/18/18 (alt) (Entered: 06/18/2018)
06/20/2018	<u>408</u>	NOTICE OF FILING of Defendants' Anticipated Trial Schedule filed by Defendants International Automated Systems, Neldon Johnson, LTB1, RaPower-3, R. Gregory Shepard. (Paul, Steven) (Entered: 06/20/2018)

06/20/2018		<p><b><u>UPDATE BENCH TRIAL COURTROOM LOCATIONS:</u></b></p> <p>Bench Trial set for 6/21/2018 thru 6/27/2018 at 08:00 AM in Rm 3.100 before Judge David Nuffer.</p> <p>Bench Trial set for 6/28/2018 thru 6/29/2018 at 08:00 AM in Rm 3.400 before Judge David Nuffer.(asb) (Entered: 06/20/2018)</p>
06/21/2018	409	<p>Minute Entry for proceedings held before Judge David Nuffer: Bench Trial held on 6/21/2018. Counsel present for parties. Mr. Snuffer addressed the court stating that the defense rests. After a brief discussion, counsel for the parties will return tomorrow, June 22 at 9:00 a.m. to begin closing arguments. Each side will have 1.5 hours for closings, with the Plaintiff having.5 for rebuttal. Defendant states exhibit 360 was admitted by the court. The court does not show exhibit 360 admitted, but will confirm later. Court is adjourned and will resume tomorrow, June 22 at 9:00 a.m. Attorney for Plaintiff: Erin Healy Gallagher, Christopher Moran, Erin Hines, Attorney for Defendant Denver Snuffer, Daniel Garriott, Steven Paul, Joshua Egan. Court Reporter: Laura Robinson.(mjm) (Entered: 06/21/2018)</p>
06/21/2018	410	<p><b><u>UPDATED TRIAL SCHEDULE:</u></b></p> <p>Bench Trial set for Friday, 6/22/2018 at 09:00 AM in Rm 3.100 before Judge David Nuffer. All other trial dates are vacated pursuant to the trial minute entry dated 6/21/2018. (asb) (Entered: 06/21/2018)</p>
06/22/2018	<u>411</u>	<p>NOTICE OF FILING of Defendants' Closing Argument filed by Defendants International Automated Systems, Neldon Johnson, LTB1, RaPower-3, R. Gregory Shepard. (Attachments: # <u>1</u> Exhibit Technical Explanation of the Revenue Provisions of the Reconciliation Act of 2010, as Amended, in Combination with the Patient Protection and Affordable Care Act)(Snuffer, Denver) (Entered: 06/22/2018)</p>
06/22/2018	<u>412</u>	<p>NOTICE OF FILING filed by Plaintiff USA. (Hines, Erin) (Entered: 06/22/2018)</p>
06/22/2018	<u>413</u>	<p><b>INTERIM ORDER for Partial Injunctive Relief After Trial. Defendants' Declaration of Compliance due on or before 6/29/18. Signed by Judge David Nuffer on 6/22/18 (alt)</b> (Entered: 06/22/2018)</p>
06/22/2018	<u>414</u>	<p>Second MOTION to Appoint Receiver and Memorandum in Support <i>and Freeze Defendants' Assets</i> filed by Plaintiff USA. (Attachments: # <u>1</u> Exhibit Warranty Deed, # <u>2</u> Exhibit Deed of Trust, # <u>3</u> Exhibit Warranty Deed, # <u>4</u> Text of Proposed Order) Motions referred to Evelyn J. Furse.(Hines, Erin) (Entered: 06/22/2018)</p>
06/22/2018	415	<p>Minute Entry for proceedings held before Judge David Nuffer: Bench Trial completed on 6/22/2018. Counsel present for parties. Closing arguments heard from both parties. Parties excused for lunch. Upon return, the court hears rebuttal from Plaintiff. The court issues the following ruling: docket entry <u>394</u> Defendant's MOTION to Dismiss Pursuant to Rule 52(c) filed by Defendants International Automated Systems, Neldon Johnson, LTB1, RaPower-3, R. Gregory Shepard is DENIED. Docket entry <u>401</u> Defendant's MOTION for Judgment as a Matter of Law and Memorandum in Support No Fraudulent Tax</p>



			Scheme filed by Defendants Roger Freeborn, International Automated Systems, Neldon Johnson, LTB1, RaPower-3, R. Gregory Shepard is DENIED. The court made interim findings in favor of Plaintiff. Plaintiff will submit proposed findings and facts of law by 7/13/2018. Defendant will submit objections by 7/27/2018. Attorney for Plaintiff: Erin Healy Gallagher, Christopher Moran, Erin Hines, Attorney for Defendant Denver Snuffer, Daniel Garriott, Steven Paul, Joshua Egan. Court Reporter: Kelly Hicken.(mjm) (Entered: 06/22/2018)
06/22/2018	<u>416</u>		Bench Trial Witness and Exhibit Lists. (asb) (Entered: 06/25/2018)
06/27/2018	417		<b>DOCKET TEXT ORDER</b> taking under advisement <u>414</u> Motion to Appoint Receiver. Expedited response is necessary. Defendants may file a response to <u>414</u> Motion to Appoint Receiver on Monday, July 2, 2018, by 9:00 a.m. If the court determines a reply is necessary, one will be requested. Signed by Judge David Nuffer on 06/27/2018. Docket text only. No attached document. (ms) (Entered: 06/27/2018)
06/27/2018	418		Motions No Longer Referred: <u>414</u> Second MOTION to Appoint Receiver and Freeze Defendants' Assets. (nas) (Entered: 06/27/2018)
06/27/2018	<u>419</u>		<b>PRESERVATION ORDER</b> . Signed by Judge David Nuffer on 6/27/18 (alt) (Entered: 06/27/2018)
06/29/2018	<u>420</u>		NOTICE OF FILING of Defendants' Report and Certification filed by Defendants International Automated Systems, Neldon Johnson, LTB1, RaPower-3, R. Gregory Shepard. (Snuffer, Denver) (Entered: 06/29/2018)
06/29/2018	<u>421</u>		<p><b>**RESTRICTED DOCUMENT**</b> NOTICE OF FILING OF OFFICIAL TRANSCRIPT of Bench Trial held on June 22, 2018, before Judge David Nuffer. Court Reporter/Transcriber Kelly Brown Hicken CSR, RPR, RMR, Telephone number 801-524-7238.</p> <p><b>NOTICE RE REDACTION OF TRANSCRIPTS: Within 7 business days of this filing, each party shall inform the Court, by filing a Notice of Intent to Redact, of the parties intent to redact <u>personal data identifiers</u> from the electronic transcript of the court proceeding. To redact additional information a Motion to Redact must be filed. The policy and forms are located on the court's website at <a href="http://www.utd.uscourts.gov">www.utd.uscourts.gov</a>. Please read this policy carefully. If no Notice of Intent to Redact is filed within the allotted time, this transcript will be made electronically available on the date set forth below.</b></p> <p>Transcript may be viewed at the court public terminal or purchased through the Court Reporter/Transcriber before the deadline for Release of Transcript Restriction. After that date it may be obtained through PACER. Redaction Request due 7/20/2018. Redacted Transcript Deadline set for 7/30/2018. Release of Transcript Restriction set for 9/27/2018 (alt) (Entered: 06/29/2018)</p>
07/02/2018	<u>423</u>		Defendant's RESPONSE to Motion re <u>414</u> Second MOTION to Appoint Receiver and Memorandum in Support <i>and Freeze Defendants' Assets</i> filed by Defendants International Automated Systems, Neldon Johnson, LTB1, RaPower-3, R. Gregory Shepard. (Snuffer, Denver) (Entered: 07/02/2018)
07/02/2018	<u>424</u>		

		NOTICE of Filing of Bankruptcy of RaPower-3, by International Automated Systems, Neldon Johnson, LTB1, RaPower-3, R. Gregory Shepard (Snuffer, Denver) Modified on 7/9/2018: added name of party who filed for bkrcy (alt) (Entered: 07/02/2018)
07/02/2018	<u>425</u>	MOTION for Extension of Time to comply with Doc. 419 and Memorandum in Support filed by Defendants International Automated Systems, Neldon Johnson, LTB1, R. Gregory Shepard. Motions referred to Evelyn J. Furse.(Paul, Steven) (Entered: 07/02/2018)
07/02/2018	426	NOTICE FROM THE COURT – Defendant RaPower-3 LLC, filed for bankruptcy in U.S. Bankruptcy Court for the District of Utah, Case No. 18-24865. (ms) (Entered: 07/02/2018)
07/02/2018	427	<b>DOCKET TEXT ORDER granting in part and denying in part <u>425</u> Motion for Extension of Time. Defendants shall have until July 13, 2018 to comply with item c. of the <u>419</u> Preservation Order. Item c. requires Defendants to provide a descriptive list of the data, identify persons responsible for maintenance of the data, including all persons with access to the data. No extensions on any other part of the <u>419</u> Preservation Order are permitted. Signed by Judge David Nuffer on 07/02/2018. Docket text only. No attached document. (ms)</b> (Entered: 07/02/2018)
07/02/2018		Case Stayed per <u>424</u> Notice of Filing of Bankruptcy (rks) (Entered: 07/05/2018)
07/10/2018	428	<b>DOCKET TEXT ORDER denying <u>394</u> Motion to Dismiss ; denying <u>401</u> Motion for Judgment as a Matter of Law. Judge Nuffer denied both of these motions from the bench on 6/22/2015. See minute entry 415 . Signed by Judge David Nuffer on 07/10/2018. Docket text only. No attached document. (ms)</b> (Entered: 07/10/2018)
07/13/2018	<u>429</u>	MOTION to Vacate Stay and Memorandum in Support filed by Plaintiff USA. (Attachments: # <u>1</u> Excerpts from June 22, 2018 trial transcript, # <u>2</u> Exhibit 917, RaPower-3, LLC's List of Creditors Who Have the 20 Largest Unsecured Claims and Are Not Insiders, # <u>3</u> Text of Proposed Order)(Gallagher, Erin) Modified on 7/13/2018: corrected entry text (alt) (Entered: 07/13/2018)
07/13/2018	<u>430</u>	<b>ORDER taking under advisement and for expedited briefing re <u>429</u> MOTION to Vacate Stay. Signed by Judge David Nuffer on 7/13/18 (alt)</b> (Entered: 07/13/2018)
07/13/2018	<u>431</u>	MOTION for Extension of Time submission of draft opinion and order and Memorandum in Support filed by Plaintiff USA. (Attachments: # <u>1</u> Text of Proposed Order) Motions referred to Evelyn J. Furse.(Gallagher, Erin) (Entered: 07/13/2018)
07/13/2018	432	<b>DOCKET TEXT ORDER granting <u>431</u> Motion for Extension of Time. The time for Plaintiff to submit a draft order and opinion as order on June 22, 2018, see minute entry 415 , will be extended to 14 days after an order is issued on <u>429</u> Motion to Vacate. Defendants will then have 14 days to submit their response to the draft. Docket text only. No attached document. Signed by Judge David Nuffer on 07/13/2018. (ms)</b> (Entered: 07/13/2018)
07/18/2018	<u>433</u>	

			NOTICE of Appearance by Jeffrey D. Tuttle on behalf of RaPower-3 (Tuttle, Jeffrey) (Entered: 07/18/2018)
07/18/2018	<u>434</u>		MEMORANDUM in Opposition re <u>429</u> MOTION to Vacate Stay <i>and Reservation of Rights</i> filed by Defendant RaPower-3. (Tuttle, Jeffrey) (Entered: 07/18/2018)
07/18/2018	<u>435</u>		RESPONSE to Motion re <u>429</u> MOTION to Vacate Stay filed by Defendants International Automated Systems, Neldon Johnson, LTBI, R. Gregory Shepard. (Paul, Steven) (Entered: 07/18/2018)
07/19/2018	<u>436</u>		NOTICE of Appearance by David E. Leta on behalf of RaPower-3 (Leta, David) (Entered: 07/19/2018)
07/20/2018	<u>437</u>		REPLY to Response to Motion re <u>429</u> MOTION to Vacate Stay filed by Plaintiff USA. (Gallagher, Erin) (Entered: 07/20/2018)
08/17/2018	<u>438</u>		MOTION for Hearing re <u>429</u> MOTION to Vacate Stay, <u>414</u> Second MOTION to Appoint Receiver and Memorandum in Support <i>and Freeze Defendants' Assets</i> re status conference and Memorandum in Support <i>status conference requested, or in the alternative, request to submit for decision</i> filed by Plaintiff USA. Motions referred to Evelyn J. Furse.(Gallagher, Erin) (Entered: 08/17/2018)
08/17/2018	<u>439</u>		RESPONSE to Motion re <u>438</u> MOTION for Hearing re <u>429</u> MOTION to Vacate Stay, <u>414</u> Second MOTION to Appoint Receiver and Memorandum in Support <i>and Freeze Defendants' Assets</i> re status conference and Memorandum in Support <i>status conference requested, or filed by Defendants International Automated Systems, Neldon Johnson, LTBI, R. Gregory Shepard.</i> (Garriott, Daniel) (Entered: 08/17/2018)
08/20/2018	440		Motions No Longer Referred: <u>438</u> MOTION for Hearing re <u>429</u> MOTION to Vacate Stay, <u>414</u> Second MOTION to Appoint Receiver and Memorandum in Support.(nas) (Entered: 08/20/2018)
08/21/2018	441		<b>DOCKET TEXT ORDER granting <u>429</u> Motion to Vacate Stay for the reasons stated in 429 and 437. Signed by Judge David Nuffer on 8/21/2018. No attached document. (asb)</b> (Entered: 08/21/2018)
08/21/2018	<u>442</u>		DOCUMENTS LODGED consisting of 8/17/2018 3:32 p.m. email from Dan Garriott with redlined proposed stipulated order to freeze assets and appoint receiver. Note: attached document lodged for reference purposes only; no response required unless specifically ordered by the court. (Attachments: # <u>1</u> Text of Proposed Stipulated Order)(asb) (Entered: 08/21/2018)
08/22/2018	<u>443</u>		<b>ORDER finding as moot <u>438</u> Motion for Hearing. Signed by Judge David Nuffer on 8/22/18 (alt)</b> (Entered: 08/22/2018)
08/22/2018	<u>444</u>	71	<b>MEMORANDUM DECISION AND ORDER granting <u>414</u> Motion to Appoint Receiver. The assets of Defendants RaPower-3, Neldon Johnson, International Automated Systems, and R. Gregory Shepard are frozen until further order of this Court. The USA shall provide within 30 days, the names of three possible receivers to the court. Signed by Judge David Nuffer on 8/22/18 (alt)</b> (Entered: 08/22/2018)

08/27/2018	<u>445</u>	69	NOTICE OF INTERLOCUTORY APPEAL as to <u>444</u> Order on Motion to Appoint Receiver,, Memorandum Decision, filed by International Automated Systems, Neldon Johnson, LTB1, RaPower-3, R. Gregory Shepard. Appeals to the USCA for the 10th Circuit. Filing fee \$ 505, receipt number 1088-3089136. (Snuffer, Denver) (Entered: 08/27/2018)
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IN THE UNITED STATES DISTRICT COURT FOR THE  
DISTRICT OF UTAH, CENTRAL DIVISION

<p>UNITED STATES OF AMERICA,</p> <p style="text-align: center;">Plaintiff,</p> <p style="text-align: center;">vs.</p> <p>RAPOWER-3, LLC, INTERNATIONAL  AUTOMATED SYSTEMS, INC., LTB1,  LLC, R. GREGORY SHEPARD,  NELDON JOHNSON, and ROGER  FREEBORN,</p> <p style="text-align: center;">Defendants.</p>	<p style="text-align: center;">Civil No. 2:15-cv-00828-DN-EJF</p> <p style="text-align: center;"><b>NOTICE OF APPEAL</b></p> <p style="text-align: center;">Judge David Nuffer  Magistrate Judge Evelyn J. Furse</p>
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Notice is hereby given that all Defendants in the above-named case, hereby appeal to the United States Court of Appeals for the Tenth Circuit from the District Court’s order appointing a receiver over all Defendants (Doc. 444) entered in this action on the 22nd day of August, 2018.

Dated this 24<sup>th</sup> day of August, 2018.

NELSON SNUFFER DAHLE & POULSEN

/s/ Denver C. Snuffer, Jr.  
Denver C. Snuffer, Jr.  
Steven R. Paul

Daniel B. Garriott  
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**CERTIFICATE OF SERVICE**

I hereby certify that a true and correct copy of the foregoing **NOTICE OF APPEAL** was sent to counsel for the United States in the manner described below.

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IN THE UNITED STATES DISTRICT COURT FOR THE  
DISTRICT OF UTAH, CENTRAL DIVISION

<p>UNITED STATES OF AMERICA,</p> <p style="text-align: center;">Plaintiff,</p> <p style="text-align: center;">vs.</p> <p>RAPOWER-3, LLC, INTERNATIONAL AUTOMATED SYSTEMS, INC., LTB1, LLC, R. GREGORY SHEPARD, NELDON JOHNSON, and ROGER FREEBORN,</p> <p style="text-align: center;">Defendants.</p>	<p><b>MEMORANDUM DECISION AND ORDER FREEZING ASSETS AND TO APPOINT A RECEIVER</b></p> <p>Civil No. 2:15-cv-00828 DN EJF</p> <p>District Judge David Nuffer</p>
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This order GRANTS the United States’ second motion to freeze Defendants’ assets and appoint a receiver, [ECF Doc. No. 414](#), filed June 22, 2018.

On November 23, 2015, the United States filed its complaint against Defendants, seeking to enjoin Defendants from organizing, promoting, and selling the “solar energy scheme” that they have been promoting since on or before 2010.<sup>1</sup> The United States also seeks disgorgement of Defendants’ ill-gotten gains from the promotion of their abusive tax scheme.<sup>2</sup>

The United States previously moved for an order freezing the assets of Defendants Neldon Johnson, RaPower-3, and IAS’s assets and for an order appointing a receiver on

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<sup>1</sup> [ECF Doc. No. 2](#) and [ECF Doc. No. 35](#) ¶ 1(a).

<sup>2</sup> [ECF Doc. No. 2](#) and [ECF Doc. No. 35](#) ¶ 1(a).

November 17, 2017.<sup>3</sup> On March 2, 2018, the United States’ motion was denied without prejudice in part because the United States relied upon the facts set forth in its motion for partial summary judgment including the “disputed material facts as to Defendants’ knowledge at the time they made certain statements.”<sup>4</sup> The Motion for Partial Summary Judgement was also denied in that same order.<sup>5</sup> Trial is now completed. The Court made extensive findings on the record at the end of trial;<sup>6</sup> intends to enter detailed Findings of Fact and Conclusions of Law including a disgorgement order; and has already entered an interim injunction based on summary findings<sup>7</sup> and a preservation order.<sup>8</sup> On the basis of the evidence adduced at trial, as laid out below, the United States’ motion is granted.

I. Statement of Facts ..... 3

II. The injunctive relief requested by the United States – in the form of an asset freeze and appointment of a receiver – is necessary or appropriate to enforce the Internal Revenue Laws.. 13

    A. The United States has succeeded on the merits. .... 15

    B. The United States will suffer irreparable injury if an order granting the asset freeze and appointing a receiver is not issued. .... 16

    C. The balance of harm to the United States in not issuing the injunctive relief outweighs the harm to be caused to Defendants by issuing the requested relief. .... 18

    D. An injunction will benefit, not disserve, the public interest. .... 19

    E. A receiver is necessary or appropriate to effect the asset freeze. .... 20

III. Order ..... 26

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<sup>3</sup> ECF Doc. No. 252. The United States did not include Shepard in its original motion to freeze defendants’ assets.

<sup>4</sup> ECF Doc. No. 318, at 4.

<sup>5</sup> *Id.*

<sup>6</sup> ECF Doc. No. 409, filed June 21, 2018.

<sup>7</sup> Initial Order and Injunction After Trial, ECF Doc. No. 413, filed June 22, 2018.

<sup>8</sup> ECF Doc. No. 419, filed June 27, 2018.



## I. Statement of Facts

1. Neldon Johnson is and has been the manager, and a direct and indirect owner of, RaPower-3, LLC, International Automated Systems, Inc. and LTB1, LLC (among other entities). He is the sole decision-maker for each entity.<sup>9</sup>

2. Johnson claims to have invented certain solar energy technology that involves solar thermal lenses placed in arrays on towers.<sup>10</sup>

3. In or around 2006 through 2008, Johnson directed IAS to erect, at most, 19 towers on “the R&D Site” near Delta, Utah, in Millard County.<sup>11</sup>

4. Johnson also directed that IAS install solar lenses in those towers.<sup>12</sup>

5. To make money from this purported solar energy technology, Johnson decided to sell a component of the purported technology: the solar lenses.<sup>13</sup>

6. Johnson recognized that his strength was not in sales, so he directed that IAS use independent sales representatives to sell lenses.<sup>14</sup>

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<sup>9</sup> ECF Doc. No. 22 ¶ 12; Pl. Ex. 579, Deposition Designations for Neldon Johnson, vol. 1 (“Johnson Dep., vol. 1”), 36:1-39:12, 46:3-47:3; 52:20-57:1; 74:1-14; 77:4-87:12.

<sup>10</sup> Johnson Dep., vol. 1, 87:16-91:1; 134:19-135:2; 139:23-144:19; Pl. Ex. 504; Pl. Ex. 509, Video 12\_4\_38-5\_15; Pl. Ex. 509, Video 12\_4\_00-4-23.

<sup>11</sup> Pl. Ex. 581, Deposition Designations for International Automated Systems, Inc. (“IAS Dep.”), 162:1-165:9; 171:10-173:20; Pl. Ex. 532 at 6; Pl. Ex. 531.

<sup>12</sup> IAS Dep. 62:15-64:1.

<sup>13</sup> Pl. Ex. 682, Deposition Designations for RaPower-3, LLC (“RaPower-3 Dep.”), Dep. 36:4-39:8.

<sup>14</sup> IAS Dep. 145:21-146:9; Pl. Ex. 463; RaPower-3 Dep. 140:9-143:4; Pl. Ex. 504.

7. Johnson drafted some promotional materials to describe the arrangement, “IAUS Solar Unit Purchase Overview” and IAS “Solar Equipment Purchase.”<sup>15</sup>

8. Johnson showed IAS salespeople these descriptive materials about the structure of the transaction, the purported technology, and the federal tax benefits that Johnson said a customer could lawfully claim when he bought a lens from IAS.<sup>16</sup>

9. He told IAS’s initial salespeople what he understood the tax laws to mean.<sup>17</sup>

10. R. Gregory Shepard has been an IAS shareholder since the mid-1990s.<sup>18</sup> He became one of IAS’s initial salespeople in or around September 2005, and began selling solar lenses.<sup>19</sup>

11. Shepard’s information about Johnson’s purported solar energy technology came from Johnson or members of Johnson’s family, and Shepard’s own observations on his site visits over the years.<sup>20</sup>

12. Johnson told Shepard that a depreciation deduction and the solar energy tax credit are related to the sale of lenses.<sup>21</sup>

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<sup>15</sup> IAS Dep. 162:1-165:9; 171:10-173:20; Pl. Exs. 531 and 532.

<sup>16</sup> IAS Dep. 162:1-165:9; 171:10-173:20; Pl. Exs. 531 and 532.

<sup>17</sup> Johnson Dep. vol. 1, 240:18-241:10; 247:11-248:12; RaPower-3 Dep. 117:22-119:11; Pl. Ex. 473.

<sup>18</sup> Pl. Ex. 685, Deposition Designations for R. Gregory Shepard (“Shepard Dep.”), 43:19-46:1.

<sup>19</sup> Shepard Dep. 70:14-71:22; Pl. Ex. 463.

<sup>20</sup> Johnson Dep., vol. 1, 209:11-210:3, 211:16-215:23; Shepard Dep. 36:6-40:23, 46:2-57:5, 183:14-187:13; Pl. Ex. 8A; RaPower-3 Dep. 155:4-166:18; Pl. Ex. 267.

<sup>21</sup> Johnson Dep., vol. 1, 279:19-22; IAS Dep. 162:1-165:9; 194:6-20; Pl. Ex. 531.

13. Johnson created, owns, and controls at least three entities that sell or have sold solar lenses: SOLCO I,<sup>22</sup> XSun Energy,<sup>23</sup> and RaPower-3, LLC.<sup>24</sup> SOLCO I and XSun Energy are not defendants in this action.

14. Johnson created RaPower-3 in 2010. He is its manager and the sole decision-maker for the company.<sup>25</sup>

15. Once formed, RaPower-3, rather than IAS, sold solar lenses to individuals.<sup>26</sup>

16. RaPower-3's only business activity is selling solar lenses through a multi-level marketing (otherwise known as "network marketing") approach to increase sales.<sup>27</sup>

17. Selling lenses through RaPower-3 gave Johnson "much needed revenue" to continue his operations.<sup>28</sup>

18. Johnson directed RaPower-3 to create a site online (<https://rapower3.net>) where a customer can access and sign a contract to buy lenses and sign other transaction documents that Johnson provides (described below).<sup>29</sup>

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<sup>22</sup> Johnson Dep., vol. 1, 82:8-83:6; LTB1 Dep. 78:22-79:5; 79:12-80:9; IAS Dep. 38:10-40:6, 45:4-17.

<sup>23</sup> See generally Pl. Ex. 355; IAS Dep. 47:2-19; Johnson Dep., vol. 1 79:8-81:7.

<sup>24</sup> RaPower-3 Dep. 32:16-33:14, 44:4-14, 45:9-10.

<sup>25</sup> RaPower-3 Dep. 32:16-33:14.

<sup>26</sup> RaPower-3 Dep. 32:16-33:14; IAS Dep. 23:22-25:22; Pl. Ex. 462; Pl. Exs. 8A, 25, 91-95, 119, 121, 174, 181, 346, 462, 464, 473, 511, 512, 531-533, 555, 587, 613-615, 637-639, 760, 762; Rowbotham Testimony, Trial Tr. 910:24-927:7; Williams Testimony, Trial Tr. 982:3-983:23; 985:4-990:12; 991:6-994:15; Olsen Testimony, Trial Tr. 1060:11-25; 1070:11-1074:7; 1078:20-1081:23; Jameson Testimony, Trial Tr. 1221:15-22; 1224:13-1225:25; 1226:6-1228:10; 1237:8-16.

<sup>27</sup> RaPower-3 Dep. 32:16-33:14; 36:4-39:8.

<sup>28</sup> Pl. Ex. 8A at 9; Pl. Ex. 749.

<sup>29</sup> RaPower-3 Dep. 39:9-41:2; Pl. Ex. 511; Pl. Ex. 673, Deposition Designations for LTB1, LLC ("LTB1 Dep."), 39:6-25; Pl. Ex. 61.

19. Among other things, Shepard created the website [www.rapower3.com](http://www.rapower3.com)<sup>30</sup> and moderates an online discussion board called “IAUS & RaPower[-]3 Forum.”<sup>31</sup>

20. Shepard gets paid for his work with RaPower-3 through his company, Shepard Global.<sup>32</sup>

21. On the RaPower-3 website, Shepard describes the solar energy technology (including the solar lenses) and the transactions underpinning the solar energy scheme, promotes sales, and provides links to the website with the transaction documents.<sup>33</sup> Shepard also uses the IAUS and RaPower-3 Forum and emails to communicate with RaPower-3 members and prospective members.<sup>34</sup>

22. Shepard also organizes groups of people to visit the R&D Site, the site where component parts of the purported solar technology system are manufactured (the “Manufacturing Facility”), and the site on a large field with a few semi-constructed component parts (the “Construction Site”).<sup>35</sup>

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<sup>30</sup> Shepard Dep. 25:22-26:8; Pl. Ex. 459; Pl. Exs. 1, 5, 19, 20-21, 24-25, 34, 352, 419, 674, 676, 678-80, 714-724, 796.

<sup>31</sup> Shepard Dep. 286:5-24.

<sup>32</sup> Jameson Testimony, Trial Tr. 1294:15-1301:3; M. Shepard Testimony, Trial Tr. 1412:18-1415:16.

<sup>33</sup> Pl. Ex. 688, Deposition Designations of Roger Freeborn (“Freeborn Dep.”), 23:2-24:14; Pl. Ex. 490; Pl. Ex 689, Deposition Designations for Peter Gregg (“Gregg Dep.”), 56:20-57:13.

<sup>34</sup> Shepard Dep. 286:5-289:13; Pl. Ex. 481.

<sup>35</sup> *E.g.*, Pl. Exs. 21, 419 at 1; Johnson Dep., vol. 1, 87:23-89:10; Pl. Ex. 509, Video 12\_4\_00-4\_23.

23. Shepard directs customers to use tax return preparers who are part of the solar energy scheme, like John Howell in Wichita Falls, Texas; Kenneth Alexander in Florida; and Richard Jameson in St. George, Utah.<sup>36</sup>

24. From 2009 through 2016, RaPower-3 had received at least \$25,874,066 from its role in the solar energy scheme.<sup>37</sup>

25. From 2008 through 2016, IAS has received at least \$5,438,089 from its role in the solar energy scheme.<sup>38</sup>

26. From 2011 through 2016, XSun Energy has received at least \$1,126,888 from its role in the solar energy scheme.<sup>39</sup>

27. From 2010 through 2016, SOLCO I has received at least \$3,434,992 from its role in the solar energy scheme.<sup>40</sup>

28. From 2005 through February 28, 2018, all lens-selling entities have received at least \$32,796,196.

29. Testimony at trial showed that the total sales price of lenses which appears to have been paid is at least \$50,025,480.<sup>41</sup>

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<sup>36</sup> Pl. Exs. 242-245; Pl. Ex. 597; Gregg Dep. 121:14-25; Pl. Ex. 606; Pl. Ex. 334.

<sup>37</sup> Pl. Ex. 735; Reinken Testimony, Trial Tr. 863:18-866:18; 866:19-868:24; *see also*, Pl. Exs. 742B, 749.

<sup>38</sup> Pl. Ex. 738; Pl. Ex. 852, at 59; Buck Testimony, Trial Tr. 257:7-258:20; 271:9-272:12; 293:1-294:11; 312:5-15; Pl. Ex. 371; Pl. Ex. 507, at 20, 35; Johnson Testimony, Trial Tr. 1812:4-12.

<sup>39</sup> Pl. Ex 741; Johnson Dep., vol. 1, 79:8-81:7; 82:8-10; IAS Dep. 47:2-19; Pl. Exs. 208, 355, 356, 510, 743, at 11.

<sup>40</sup> Pl. Ex. 739; Reinken Testimony, Trial Tr. 863:18-866:18; 870:3-871:7; Johnson Dep., vol. 1, 82:8-85:2; IAS Dep. 38:10-40:6; 45:4-21; LTB1 Dep. 78:22-79:5; 79:12-80:9; 81:12-21; Pl. Exs. 38, 325, 495, 545. Reinken Testimony, Trial Tr. 863:18-866:18; 871:10-872:14.

<sup>41</sup> Exhibit 749.

30. From 2008 through 2016, Shepard received \$702,001 from his role in the solar energy scheme.<sup>42</sup>

31. While selling the solar lenses, Defendants told customers they could buy “lenses” and claim tax benefits.<sup>43</sup>

32. While they sold solar lenses and organized efforts to sell solar lenses, Defendants told their customers that if they bought a solar lens and signed the transaction documents Defendants provide, their customers were in the “trade or business” of “leasing” solar lenses.<sup>44</sup>

33. According to Defendants, because their customers are in the trade or business of leasing solar lenses, their customers are allowed to claim on their federal income tax returns a business tax deduction for depreciation on the solar lenses and a solar energy tax credit.<sup>45</sup>

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<sup>42</sup> Pl. Exs. 411, 445; G. Shepard Testimony, Trial Tr. 1596:5-1598:21; Jameson Testimony, Trial Tr. 1296:19-1301:3.

<sup>43</sup> Oveson Testimony, Trial Tr. 377:21-378:3; Rowbotham Testimony, Trial Tr. 928:14-929:10; 957:17-19; Williams Testimony; Trial Tr. 1022:4-14; 1099:16-1102:15; Olsen Testimony, Trial Tr. 1089:21-1090:15; RaPower-3 Dep., 155:4-166:18; Shepard Dep. 250:13-251:13; Aulds Dep. 42:11-44:22; 54:15-55:14; 57:17-60:15; Freeborn Dep. 71:2-20; Gregg Dep. 127:19-128:8; 136:4-6, 10-14; 137:3-12; 147:5-148:10; 149:1-7; Lunn Dep. 164:12-171:1; Pl. Exs. 1, 30, 32, 43, 49, 93, 125, 214, 294, 348, 492, 496, 499, 501, 532.

<sup>44</sup> *E.g.*, Pl. Ex. 32. Occasionally, Shepard has claimed that customers have been “in the solar energy business.” Shepard Dep. 243:11-244:3; Pl. Ex. 43 at 1 (“AM I REALLY IN THE SOLAR ENERGY BUSINESS? Yes.”). But in recent years, Shepard has made it clear that “We should not consider ourselves in an ‘energy’ business. We are buying lenses and leasing them – THAT is our business – LEASING – NOT producing energy ...” Pl. Ex. 32.

<sup>45</sup> Pl. Ex. 1 at 2-3 (“Tax Question” Nos. 45). A collection of Johnson’s statements: IAS Dep. 162:1-165:9, 171:10-173:20; Pl. Ex. 531 at 3; *see also* Pl. Ex. 532 at 7-10. A collection of Shepard’s statements: Pl. Ex. 93 (as a result of purchasing a lens, “the investor gets his \$9,000 back in the form of a Tax Credit, plus the depreciation which adds extensive value over a six year period plus the income from power produced by the Solar Pod.”); Shepard Dep. 148:21-149:25; *e.g.*, Pl. Ex. 125 (letter from Shepard telling a customer that he is “qualif[ied] ... for the Internal Revenue Service solar energy tax credit” because RaPower-3 “put [their lenses] into service”).

34. Defendants told customers that IAS, RaPower-3, or LTB “placed in service” or “put into service” their solar lenses in the year that the customers purchased the lenses.<sup>46</sup>

35. Starting in 2010, RaPower-3 sold lenses for a price of \$3,500 per lens.<sup>47</sup> Johnson determined the price that RaPower-3 would charge for the lenses.

36. Customers started purchasing lenses via the internet at rapower.net. On that site, a potential customer enters the number of lenses he wishes to purchase, and the website “figures” the amount the customer owes and the amount of the customer’s down payment.<sup>48</sup>

37. The site also provides all transaction documents for customers to sign electronically: an Equipment Purchase Agreement, an Operations & Maintenance Agreement (“O&M”), and, at times in the past, a bonus contract.<sup>49</sup>

38. Customers do not negotiate the price of a lens, or other terms of the transactions Defendants promote.<sup>50</sup>

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<sup>46</sup> Pl. Ex. 1 at 3 (“Tax Question” No. 7); Pl. Exs. 44, 57, 104-105, 123-125, 176, 185, 313, 588; *see also*, Pl. Ex. 472.

<sup>47</sup> Johnson Dep., vol. 1, 206:15-23; Pl. Ex. 687, Deposition Designations for Robert Aulds (“Aulds Dep.”) 141:3-13; 146:17-147:5.

<sup>48</sup> Aulds Dep. 141:3-13.

<sup>49</sup> RaPower-3 Dep. 39:18-41:2; Aulds Dep. 141:3-13.

<sup>50</sup> RaPower-3 Dep. 39:9-41:2; *e.g.*, Pl. Exs. 119, 181, 511; Aulds Dep. 141:3-13; 146:17-147:5; Gregg Dep. 55:19-56:13; Howell Dep. 39:17-40:4; 95:3-5; 134:14-135:22; Zeleznik Dep. 67:3-12; Pl. Ex. 693, Deposition Designations for Frank Lunn, IV (“Lunn Dep.”) 114:11-115:4.

39. Over the years, Defendants told customers about Johnson’s purported solar energy technology and the progress being made by Defendants.<sup>51</sup> Defendants emphasized progress being made despite their knowledge that the system was not up and running.<sup>52</sup>

40. From the start, Defendants have told their customers that they can “zero out” their federal income tax liability by buying enough solar lenses and claiming both a depreciation deduction and solar energy tax credit for the lenses.<sup>53</sup>

41. Defendants knew that when they made statements to customers and prospective customers about the tax benefits and their purported solar lens leasing “trade or business,” that the only way a customer has ever “made money” from buying a lens is from the tax benefits; no customer has earned money from rental income or income from a bonus contract.<sup>54</sup>

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<sup>51</sup> *E.g.*, Pl. Ex. 185 at 1; Johnson Dep., vol. 1, 173:11-177:16; Pl. Exs. 16 & 17. Johnson gave these white papers to Shepard. Johnson Dep., vol. 1, 185:15-23; Shepard Dep. 126:9-128:5. Shepard made them available to the public on rapower3.com. Freeborn Dep. 24:16-25:23; Pl. Exs. 441, 491; RaPower-3 Dep. 140:4-143:17; Pl. Ex. 504; Shepard Dep. 199:10-204:14; Pl. Ex. 471; Shepard Dep. 250:13-252:21; Pl. Ex. 72; Pl. Ex. 109 at 1-3; *see also* Freeborn Dep. 95:3-98:1; Pl. Ex. 425 at 1. Johnson dep., vol. 1, 211:16-215:23; Shepard Dep. 36:6-40:23, 183:14-187:13; Pl. Ex. 8A; Pl. Ex. 676; Gregg Dep. 57:18-59:12; Pl. Exs. 298-299; Pl. Ex. 26; 93; 216, 246, 270, 329, 348.

<sup>52</sup> J. Anderson Testimony, Trial Tr. 617:25-618:9; Pl. Ex. 602; Ruling on Plaintiff’s Motions in Limine, Trial Tr. 2107:2-9; Pl. Exs. 6; 292; 411, at 10-11; 412, at 9; 413, at 6; 414, at 10; 415, at 7; 416, at 7; 509, Video 12\_4\_38-5\_15; 509, Video 18\_4\_09-4\_25; 526; 901; Johnson Testimony, Trial Tr. 1990:13-16; Shepard Dep. 204:15-207:8.

<sup>53</sup> Johnson Dep., vol. 1, 247:11-248:12; Pl. Ex. 490 at 9-10; IAS Dep. 162:1-165:9; Pl. Ex. 531. According to Shepard, “the greater one’s tax liability, the greater will be the depreciation benefit.” Pl. Ex. 24 at 1; *see also*, Pl. Ex. 20 at 2; Lunn Dep. 188:18-189:20; Pl. Ex. 24, 43, 48, 70, 71, 85, 88, 109, 133, 142, 158, 181, 207, 214, 220, 325, 438, 474, 490, 496, 497, 501, 532, 597, 674, 718, 721, 722, 777.

<sup>54</sup> Shepard Dep. 92:17-94:13; Freeborn Dep. 82:16-85:7; Pl. Ex. 246. Freeborn testified that the income from commission on solar lens sales is also “functional.” Freeborn Dep. 82:16-85:17; Pl. Ex. 246. But the multi-level marketing component of RaPower-3 is not connected to lens ownership. RaPower-3 Dep. 33:8-34:9. A distributor need not buy a lens in order to sell lenses for RaPower-3. *Id.*; Johnson Testimony, Trial Tr. 2242:8-2251:18.



42. LTB, which by contract was to operate and maintain the solar energy project and specifically the lenses, has never done anything; it has never had a bank account, any employees, or any revenue.<sup>55</sup>

43. Defendants told customers to expect income from the “lease” of their lenses, but Defendants know that no customer has been paid for the use of his or her lenses.<sup>56</sup>

44. Defendants’ customers have been audited by the IRS for claiming the tax benefits Defendants promote.<sup>57</sup>

45. Based on the advice and information provided by attorneys or accountants they spoke with about the solar energy scheme, Defendants knew or had reason to know that the purported tax benefits were not permissible under the Internal Revenue Code.<sup>58</sup>

46. Defendants also knew or had reason to know that the purported tax benefits from their solar energy scheme were not permissible under the Internal Revenue Code because others also disagreed with their assertions about tax benefits available from the solar lenses, including:

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<sup>55</sup> LTB Dep. 10:10-11:1; 14:7-16:7; 18:2-9; 42:10-43:5; 69:6-74:21; 90:19-91:8; Pl. Ex. 464; Johnson Testimony, Trial Tr. 2246:7-2247:19

<sup>56</sup> Shepard Dep. 34:18-35:24; 67:1-12; 76:23-82:18; 93:17-94:13; Pl. Ex. 279 at 1; Pl. Ex. 602 at 1-2; Pl. Ex. 465; Johnson Dep., vol. 1. 230:4-11; Pl. Exs. 10, 19, 48, 49, 61, 70A, 142, 151, 159, 217, 246, 283, 341, 465, 724, 796; Rowbotham Testimony, Trial Tr. 933:19-935:15; Williams Testimony, Trial Tr. 1000:9-1001:7; Olsen Testimony, Trial Tr. 1074:8-1078:16; 1086:12-1087:6; Jameson Testimony, Trial Tr. 1238:3-24; 1241:6-11; 1241:17-1245:1; 1280:21-1282:20; 1310:18-1312:9; M. Shepard Testimony, Trial Tr. 1406:12-1407:2; 1574:21-1575:14; G. Shepard Testimony, Trial Tr. 1734:9-1738:23.

<sup>57</sup> *E.g.*, Pl. Ex. 683, Deposition Designations of John Howell (“Howell Dep.”), 211:11-213:14 (aware of 150 cases in Tax Court); Shepard Dep. 250:17-251:3.

<sup>58</sup> Pl. Exs. 23, 73, 135, 141, 185, 231, 370, 373, 374, 449, at 2; 450, at 4; 452, at 2; 477, 480, 547, 570, 574, 582; Freeborn Dep. 95:3-13; Dr. Mancini Testimony, Trial Tr. 75:4-15; 85:24-86:12; 90:5-94:7; 96:17-20; 105:9-107:6; Shepard Testimony, Trial Tr. 1692:25-1693:5; 1723:15-22; 1728:4-1729:25; 1730:18-1731:3; Buck Testimony, Trial Tr. 267:24-269:22; 270:3-271:4; Oveson Testimony, 331:11-23; 334:18-336:3; 341:20-342:25; 343:1-2, 6-8; 343:21-344:10; 344:21-346:19; 347:18-348:13; 352:24-355:21; 356:7-357:14; 358:13-361:2; Shepard Dep. 266:2-267:1; J. Anderson Testimony; Trial Tr. 613:12-618:9; 620:1-621:24; 622:19-623:20; 630:20-632:10; 632:17-633:1.

customers' or prospective customers' tax preparers/CPAs, the Internal Revenue Service, the Oregon Department of Revenue, the Oregon Tax Court Magistrate Division, and the Department of Justice.<sup>59</sup>

47. When a customer notifies Shepard that they are under audit, Shepard typically directs the customer to Enrolled Agents John Howell or Richard Jameson to represent the customer before the IRS.<sup>60</sup> Howell and Jameson represent RaPower-3 customers using the same arguments that Defendants make.<sup>61</sup>

48. Shepard has also advocated for customers under audit before the IRS.<sup>62</sup> He has given customers the arguments to make before the IRS and documents to submit while under audit.<sup>63</sup>

49. Johnson is paying the attorneys' fees for all customers whose tax benefits have been disallowed on appeal by the IRS and who have filed petitions in Tax Court.<sup>64</sup>

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<sup>59</sup> *Id.*; see also, ECF Doc. No. 2; *Peter C. Gregg v. Department of Revenue*, 2014 WL 5112762 (Or. Tax. Magistrate Div. 2014); *Kevin M. Gregg v. Department of Revenue*, 2017 WL 5900999 (Or. Tax Magistrate Div. 2017); *Matthew D. Orth v. Department of Revenue*, 2017 WL 5904611 (Or. Tax Magistrate Div. 2017).

<sup>60</sup> Gregg Dep. 151:7-25; Pl. Exs. 333-34; Howell Dep. 183:11-184:8; 211:11-212:10; Pl. Ex 348.

<sup>61</sup> See, e.g., Howell Dep. 221:16-223:18; Pl. Exs. 605, 608, 637.

<sup>62</sup> Pl. Ex. 10.

<sup>63</sup> Pl. Ex. 49; Pl. Ex. 697, Deposition Designations for Brian Zeleznik ("Zeleznik Dep."), 184:18-185:17; 211:4-214:4 and compare, e.g., Pl. Ex. 81 (document written by Brian Zeleznik to the IRS in response to his audit) with Pl. Ex. 89 (email from Shepard to Zeleznik with a sample document to use with the IRS); see also, Pl. Ex. 163 at 1-2; Pl. Ex. 231; Pl. Ex. 340 (*id.* at 2 ("You can hand write notes or even copy the above [arguments] down by hand and read it word for word [to an auditor]. Just don't give [an auditor] this email.")).

<sup>64</sup> Johnson Dep., vol. 1, 282:19-284:10; IAS Dep. 229:16-230:23; Zeleznik Dep. 142:7-143:1; Jameson Testimony, Trial Tr. 1249:14-1250:1.

50. Defendants have caused serious harm to the United States Treasury as a result of their solar energy scheme.<sup>65</sup> Defendants' customers claimed at least \$14,207,517 of improper tax refunds as a result of Defendants' scheme for tax years 2013 through 2016.<sup>66</sup>

51. To date, Johnson, Shepard, IAS and RaPower-3 continue to organize sales of solar lenses, and participate (directly and indirectly) in the sale of solar lenses.<sup>67</sup>

52. They are not deterred from promoting the scheme, not by the IRS' disallowance of their audited customers' depreciation deductions and solar energy tax credits or by the complaint filed in this case or by the announced result in the case.<sup>68</sup>

**II. The injunctive relief requested by the United States – in the form of an asset freeze and appointment of a receiver – is necessary or appropriate to enforce the Internal Revenue Laws.**

Under [26 U.S.C. § 7402](#), this Court has the authority to impose an asset freeze and appoint a receiver to take control of Defendants IAS and RaPower-3's assets and business operations..<sup>69</sup> Section 7402(a) encompasses a broad range of powers necessary to compel

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<sup>65</sup> Pl. Ex. 750; Howell Dep. 186:3-190:23; 193:22-194:10; 194:19-200:20; Zeleznik Dep. 152:10-15, 152:22-159:5; Gregg Dep. 102:7-103:25; 104:24-105:4; 105:15-106:2; 112:7-124:9; Perez Testimony, Trial Tr. 828:5-829:7, 834:11-836:14; Olsen Testimony, Trial Tr. 1136:14-1137:18; 1139:8-1145:12; Williams Testimony, Trial Tr. 1022:18-1028:14; Jameson Testimony, Trial Tr. 1282:21-1289:11; 1289:15-1293:18; 1304:4-1306:8; 1307:2-1308:17.

<sup>66</sup> Pl. Ex. 750; Perez Testimony, Trial Tr. 828:5-829:7, 834:11-836:14.

<sup>67</sup> Johnson Dep., vol. 1, 240:2-17; 245:24-246:22; Pl. Exs. 424, 426, 539, 679, 731-33.

<sup>68</sup> Shepard Dep., 311:2-315:5; RaPower-3 Dep. 197:13-199:4; IAS Dep. 226:9-25; Jameson Testimony, Trial Tr. 1229:11-14; M. Shepard Testimony, Trial Tr. 1526:19-21

<sup>69</sup> Under [26 U.S.C. § 7402\(a\)](#), the district courts "shall have jurisdiction to make and issue in civil actions, writs and orders of injunction, [ ] orders appointing receivers, and such other orders and processes, and to render such judgments and decrees as may be necessary or appropriate for the enforcement of the internal revenue laws. The remedies hereby provided are in addition to and not exclusive of any and all other remedies of the United States in such courts or otherwise to enforce such laws."

compliance with the tax laws.<sup>70</sup> Courts have exercised this broad authority under § 7402(a) in a variety of contexts, including ordering disgorgement of ill-gotten gains against a tax return preparer engaged in fraudulent return preparation,<sup>71</sup> appointing receivers to assist in collection of federal tax liabilities or otherwise ensure compliance with the internal revenue laws,<sup>72</sup> and freezing a defendant’s assets.<sup>73</sup> The statute alone provides sufficient authority to issue an injunctive order freezing Defendants’ assets.

Examination of the typical factors in imposing equitable relief before final adjudication is not necessary but demonstrates the propriety – and necessity – of this action. In the Tenth Circuit, a party seeking a preliminary injunction must show 1) that there exists a substantial likelihood that the movant will prevail on the merits; 2) that the movant will suffer irreparable injury unless the injunction issues; 3) that the threatened injury to the movant outweighs

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<sup>70</sup> See *Brody v. United States*, 243 F.2d 378, 384 (1st Cir. 1957) (“It would be difficult to find language more clearly manifesting a congressional intention to provide the district courts with a full arsenal of powers to compel compliance with the internal revenue laws.”); *United States v. Kaun*, 633 F. Supp. 406, 409 (E.D. Wisc. 1986) (“By its very terms, this statutory provision authorizes the federal district courts to fashion appropriate, remedial relief designed to ensure compliance with both the spirit and the letter of the Internal Revenue laws – all without enumerating the many, particular methods by which these laws may be violated or their intent thwarted.”), *aff’d on other grounds*, 827 F.2d 1144 (7th Cir. 1987); see also *United States v. ITS Financial, LLC*, 592 Fed. Appx. 387, 397 n.6 (6th Cir. 2014).

<sup>71</sup> *United States v. Stinson*, 239 F. Supp. 3d 1299, 1326 (M.D. Fla., March 6, 2017).

<sup>72</sup> See, e.g., *United States v. Latney’s Funeral Home*, 41 F.Supp.3d 24, 27 (D.D.C. 2014) (receiver appointed under broad authority of section 7402(a) to oversee company’s finances, prevent company from pyramiding employment taxes, and ensuring that company timely filed tax returns); *United States v. Bartle*, 159 Fed. Appx. 723, 724-25 (7th Cir. 2005) (district court did not abuse its discretion in appointing a receiver when defendant owed more than \$1 million in delinquent taxes and engaged in a series of transactions to move assets and commingle funds in an attempt to thwart the government’s collection efforts); *Florida v. United States*, 285 F.2d 596, 602 (8th Cir. 1960) (“Though the precise limits of judicial discretion to appoint a receiver under Sections 7402(a) and 7403 of the 1954 [Internal Revenue] Code are not defined, where the record shows that a substantial tax liability probably exists, and that the Government’s collection of the tax may be jeopardized if a receiver is not appointed, the appointment will be made.”) (quoting Mertens, Law of Federal Income Taxation, Vol. 9, § 49.222, 1960 Cum. Supp. p. 41).

<sup>73</sup> *United States v. First National City Bank*, 379 U.S. 378 (1965).

whatever damage the proposed injunction may cause the opposing party; and 4) that the injunction would not be adverse to the public interest.<sup>74</sup> The Court finds that while 26 U.S.C. § 7402(a) provides explicit authority for the relief requested, the United States, as the moving party, also meets its burden under the preliminary injunction standard for the relief requested.<sup>75</sup>

**A. The United States has succeeded on the merits.**

For injunctive relief to be warranted under § 7408, the United States must prove by a preponderance of the evidence that (1) Defendants organized an entity, plan, or arrangement; (2) Defendants made false or fraudulent statements concerning the tax benefits to be derived from the entity, plan or arrangement; (3) Defendants knew or had reason to know those statements were false or fraudulent; (4) the false or fraudulent statements pertained to a material matter; and (5) an injunction is necessary to prevent recurrence of this conduct. Alternatively, for injunctive relief to be warranted under § 7402, the United States must prove that an injunction is necessary *or* appropriate to enforce the internal revenue laws.<sup>76</sup> As the Court has found, the United States has proven that it is entitled to an injunction under 26 U.S.C. §§ 7402 and/or 7408. The evidence adduced at trial shows that Defendants organized the solar energy scheme;<sup>77</sup> that

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<sup>74</sup> *In re Qwest Communications Intern., Inc. Securities Litigation*, 243 F.Supp.2d 1179, 1185 (D. Colo. 2003) (citing *Lundgrin v. Claytor*, 619 F.2d 61, 63 (10th Cir. 1980)); *see also*, Fed. R. Civ. P. 65.

<sup>75</sup> *Lundgrin*, 619 F.2d at 63.

<sup>76</sup> 26 U.S.C. § 7402(a) (emphasis added).

<sup>77</sup> *E.g.*, Pl. Ex. 2, Pl. Ex. 511; Pl. Ex. 579, Johnson Dep., vol. 1, 228:10-234:17; Pl. Ex. 682, RaPower-3 Dep., 39:9-41:2; *United States v. Raymond*, 228 F.3d 804, 811 (7th Cir. 2000) *overruled on other grounds by Hill v. Tangherlini*, 724 F.3d 965, 967 n. 1 (7th Cir. 2013); *see also United States v. Stover*, 650 F.3d 1099, 1107 (8th Cir. 2011) (The organizing, promoting, or selling element of § 6700 “should be defined broadly, and is satisfied simply by selling an illegal method by which to avoid paying taxes.” (quotations omitted).); *United States v. Benson*, 561 F.3d 718, 722 (7th Cir. 2009); *United States v. Alexander*, 2010 U.S. Dist. LEXIS 40108, at \*13-14 (D.S.C. 2010) *United States v. United Energy Corp.*, No. C-85-3655-RFP (CW), 1987 WL 4787, at \*8-9 (N.D. Cal. Feb. 25, 1987).

Defendants made false or fraudulent statements about the tax benefits to be obtained from purchasing a solar lens;<sup>78</sup> and that Defendants knew or had reason to know that their statements were false or fraudulent pertaining to a material matter,<sup>79</sup> namely the tax benefits of depreciation and solar energy tax credits. Further, Defendants have testified that they have no intention of ceasing their activity related to and sales of solar lenses. An injunction is necessary to prevent recurrence of Defendants' conduct.

Disgorgement is also necessary or appropriate to enforce the internal revenue laws. Defendants profited from their scheme in the millions of dollars through money from the United States Treasury that was funneled through their customers. Defendants should not be permitted to retain their ill-gotten gains. The United States has shown that a reasonable approximation of their proceeds is at least \$50,025,480. This Court has found that an injunction will issue and that disgorgement will be ordered. Thus, the United States has already succeeded on the merits.

**B. The United States will suffer irreparable injury if an order granting the asset freeze and appointing a receiver is not issued.**

The United States Treasury has already been greatly harmed by Defendants' scheme. Defendants continue to sell lenses to this day, and Defendants' customers continue to claim the tax benefits related to those lenses. If the injunctive relief requested is not granted, Defendants

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<sup>78</sup> *E.g.*, Pl. Ex. 24, Pl. Ex. 32, Pl. Ex. 93, Pl. Ex. 125, Pl. Ex. 214, Pl. Ex. 294, Pl. Ex. 492, Pl. Ex. 496, Pl. Ex. 531, Pl. Ex. 532; *see United States v. Campbell*, 897 F.2d 1317, 1320 (5th Cir. 1990); *Benson*, 561 F.3d at 724; *United Energy Corp.*, 1987 WL 4787, \*9.

<sup>79</sup> *E.g.*, Pl. Ex. 40 at 8, Pl. Ex. 279, Pl. Ex. 246, Pl. Ex. 531, Pl. Ex. 532 at 6; *Stover*, 650 F.3d at 1108-09; *United Energy Corp.*, 1987 WL 4787, \*9; *United States v. Music Masters, Ltd.*, 621 F. Supp. 1046, 1055 (W.D.N.C. 1985); *Campbell*, 897 F.2d at 1320-22 (statements about material matters include those that directly address the tax benefits purportedly available to a participant in a tax scheme and those that concern factual matters that are relevant to the availability of tax benefits.); *United States v. Hartshorn*, 751 F.3d 1194, 1202 (10th Cir. 2014).

will have full unfettered access to the funds illicitly obtained to the detriment of the United States.<sup>80</sup> Defendants' entire scheme was geared to "zero-out" a customer's tax liability. Defendants requested customers make a down payment for their solar lenses of \$1,050 per lens. The customers paid this with a \$105 "upfront fee" and were asked to pay the remaining amount *after* they received their tax refunds.<sup>81</sup> Defendants funded their entire scheme through funds that were "redirected" or diverted from the United States Treasury to their pockets though the money first went through the hands of their customers. The United States will not be able to recover all of the improper refunds paid to Defendants' customers. Defendants have been dissipating assets since they learned of the criminal investigation by the Internal Revenue Service no later than June of 2012<sup>82</sup> and throughout the course of this litigation.<sup>83</sup> Defendants have moved assets into

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<sup>80</sup> See *United States v. Stinson*, 239 F. Supp. 3d 1299, 1326 (M.D. Fla., March 6, 2017); *Manor Nursing Centers*, 458 F.2d at 1104 ("The effective enforcement of the federal securities law requires that the SEC be able to make violations unprofitable. The deterrent effect of a Commission enforcement action would be greatly undermined if securities law violators were not required to disgorge illicit profits.").

<sup>81</sup> Pl. Ex. 511; Shepard Dep. 150:17-153:21, 154:9-156:17; Pl. Exs. 119, 147, 265, 267.

<sup>82</sup> RaPower-3 Dep., vol. 197:13-199:6.

<sup>83</sup> Pl. Ex. 684, true and correct copies of bank statements of defendants Neldon Johnson, RaPower-3 and IAS showing some of the activity and transfers that have occurred during the pendency of this litigation; *see also*, Pl. Ex. 646, Pl. Ex. 647, Pl. Ex. 648, Pl. Ex. 649, Pl. Ex. 650; Johnson Dep., vol. 2, 202:17-220:16.

foreign jurisdictions<sup>84</sup> and both Johnson<sup>85</sup> and Shepard<sup>86</sup> have taken steps to frustrate the collection of a potential disgorgement award. Without the relief requested, Defendants will continue in their attempt to frustrate the collection of any disgorgement this Court may award and thus irreparably injure the United States.

**C. The balance of harm to the United States in not issuing the injunctive relief outweighs the harm to be caused to Defendants by issuing the requested relief.**

In evaluating this factor, courts look to whether the freeze itself will cause such disruption of defendants' *legitimate* business affairs that the assets would be destroyed.<sup>87</sup> Here, Defendants have no legitimate business. Defendants' solar energy scheme is an abusive tax scheme and not a legitimate business. Defendants do not operate the solar energy scheme – or

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<sup>84</sup> Johnson Dep., vol. 2, 37:22 – 38:5; Neldon Johnson assigned the rights to six patents to Black Night Enterprises, Inc., #6 Solomon's Arcade, Main Street, Charleston, Saint Kitts and Nevis (see USPTO Patent Assignment Search, search by assignee name: "Black Night"). The assignments were executed between April 2013 and June 2015 and recorded on June 16, 2015. See USPTO assignment search for Neldon Johnson, <https://assignment.uspto.gov/patent/index.html#/patent/search/result?id=neldon%20johnson&type=patAssignorName>.

<sup>85</sup> For example, Neldon Johnson has transferred patents to Nevis and has ownership interests in multiple foreign entities, *supra*. Further, Neldon Johnson testified that if a "government agency caus[ed] problems," then certain assets would revert back to the foreign company. Trial Tr. 2175:4-16. Johnson has structured his affairs in a convoluted manner and in such a way as to obstruct the United States' discovery of ownership interests and assets. *E.g.*, [ECF Doc. No. 53](#), [ECF Doc. No. 55](#), [ECF Doc. No. 56](#), [ECF Doc. No. 57](#), [ECF Doc. No. 58](#), [ECF Doc. No. 59](#), [ECF Doc. No. 138](#), [ECF Doc. No. 140](#), [ECF Doc. No. 143](#), [ECF Doc. No. 160](#), [ECF Doc. No. 161](#), [ECF Doc. No. 203](#), [ECF Doc. No. 206](#), [ECF Doc. No. 209](#), [ECF Doc. No. 210](#), ECF Doc. No. 212, [ECF Doc. No. 213](#), [ECF Doc. No. 218](#), [ECF Doc. No. 219](#). Permitting Defendants more time to engage in their solar energy scheme and moving assets while the case has been submitted and decision and judgment is forthcoming will only cause further injury to the United States.

<sup>86</sup> In March 2017, during this litigation, R. Gregory Shepard transferred his property right in his personal residence to a trust in the name of his wife. Pl. Ex. 914, 915, 916 (attached); *see also*, U.C.A. § 78B-5-503(7); U.C.A. § 78B-5-512. Pl. Ex. 914, 915, and 916 are certified copies of documents filed with the Salt Lake County Recorder and are self-authenticating. *Fed. R. Evid.* 902(4).

<sup>87</sup> *SEC v. Prater*, 289 F. Supp. 2d 39, 54 (D. Conn. 2003) (citing *SEC v. Manor Nursing Ctrs., Inc.*, 458 F.2d 1082, 1106 (2d Cir. 1972)) (emphasis added).



any of the entities involved in the solar energy scheme – in a businesslike manner. Defendants do not have any revenue or income aside from the sale of solar lenses. There is no harm to Defendants in prohibiting them from using ill-gotten gains to fund their technology experimentation and their personal expenses, including offshore arrangements that will be difficult to collect against. The United States however, and the taxpaying public, will continue to be harmed by the probable dissipation of Defendants’ assets. The United States has a compelling interest in enforcing the tax laws and ensuring that persons promoting abusive tax schemes do not profit from their unlawful behavior.<sup>88</sup> As such, the balance of harms weighs in favor of the United States and for relief to be granted.<sup>89</sup>

**D. An injunction will benefit, not disserve, the public interest.**

The public interest is served by issuing the injunctive relief requested by the United States. The public has an interest in enforcement of the tax laws.<sup>90</sup> Taxpayers have an interest in being protected from suffering the results of other taxpayers improper tax benefits. Defendants’ activities do a disservice to the taxpaying public, undermining confidence in the fair administration of the internal revenue laws, and have cost the United States’ Treasury over \$14

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<sup>88</sup> See *Bull v. United States*, 295 U.S. 247, 259 (1935) (Taxes are the life-blood of government and their prompt and certain availability an imperious need.).

<sup>89</sup> See *United States v. Buddhu*, 2009 WL 1346607, at \*5 (D. Conn. 2009) (“While the [defendants] will be denied the right to earn a livelihood preparing income tax returns, the harm to them is substantially outweighed by the harm to which their clients are subjected by having fraudulent tax returns prepared in their names.”)

<sup>90</sup> *United States v. Anderson*, 2010 WL 1988100, at \*3 (D.S.C. 2010); accord *HedgeLender*, 2011 WL 2686279, at \*10 (E.D. Va. 2011) (Promoting an abusive tax shelter that caused millions of lost tax revenue “is a significant harm to society because it promotes noncompliance with federal tax laws and is a great cost to the public.”); As the Senate Report regarding the enactment of § 6700 observed, “[t]he widespread marketing and use of tax shelters undermines public confidence in the fairness of the tax system and in the effectiveness of existing enforcement provisions.” S. Rep. No. 97- 494, Vol I at 266.

million. Defendants should not be permitted to profit from their illicit activities. The public interest is also served in ensuring that Defendants do not dissipate assets that can be used to satisfy any disgorgement award this Court may order or otherwise compensate those harmed by Defendants' abusive tax scheme.<sup>91</sup>

**E. A receiver is necessary or appropriate to effect the asset freeze.**

This Court has explicit statutory authority to appoint a receiver pursuant to [26 U.S.C. § 7402\(a\)](#) as may be necessary or appropriate for the enforcement of the internal revenue laws.<sup>92</sup> Second, the appointment of a receiver is authorized by the inherent equitable power of a federal court.<sup>93</sup> The Court finds that the appointment of a receiver is necessary and appropriate in this case. Defendants' solar energy tax scheme involves false or fraudulent statements and the possible dissipation of assets.<sup>94</sup> Given Defendants' reluctance to cooperate in discovery regarding assets and ownership structure<sup>95</sup>, a receiver is necessary to enforce the internal revenue

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<sup>91</sup> When the public interest is involved, "Courts of equity may, and frequently do, go much farther both to give and withhold relief in furtherance of the public interest than they are accustomed to go when only private interests are involved." *United States v. First National City Bank*, 379 U.S. 378, 383 (1965) (quoting *Virginia R. Co. v. System Federation*, 300 U.S. 515, 552 (1937)).

<sup>92</sup> 26 U.S.C. § 7402(a); *see also*, *United States v. Latney's Funeral Home*, 41 F.Supp.3d 24, 27 (D.D.C. 2014); *United States v. Bartle*, 159 Fed. Appx. 723, 724-25 (7th Cir. 2005); *Florida v. United States*, 285 F.2d 596, 602 (8th Cir. 1960).

<sup>93</sup> *See SEC v. Vescor Capital Corp.*, 599 F.3d 1189, 1193-94 (10th Cir. 2010) (the district court has broad powers and wide discretion to determine relief and supervise receiverships); *United States v. Bartle*, 159 F. App'x 723, 725 (7th Cir. 2005); *Consolidated Rail Corp. v. Fore River Railway Co.*, 861 F.2d 322, 326-27 (1st Cir. 1988) (court may exercise discretion to appoint receiver upon considering fraudulent conduct, relative risks of harm, inadequacy of legal remedies, chance of success on merits, likelihood of irreparable injury, etc.); *Matter of McGaughey*, 24 F.3d 904, 907 (7th Cir. 1994) (federal court has inherent power to appoint receiver to manager defendant's assets pending litigation); *National Partnership Investment Corp., v. National Housing Development Corp.*, 153 F.3d 1289, 1291 (11th Cir. 1998) (appointment of receiver in equity is an ancillary remedy); *see also* Fed. R. Civ. P. 66.

<sup>94</sup> *Matter of McGaughey*, 24 F.3d 904, 907 (7th Cir. 1994).

<sup>95</sup> ECF Doc. No. 218.

laws and determine and corral the assets Defendants have, regardless of their location. This is appropriate to ensure that any disgorgement that may awarded will not be rendered meaningless.

The United States shall provide, within 30 days, the names of three possible receivers as well as a proposed order detailing the powers and responsibilities that the United States proposes the Court vest within the receiver. The Court may appoint from that list or otherwise. The proposed order should include all powers conferred upon a receiver under the provisions of 28 U.S.C. §§ 754, 959 and 1692, Fed. R. Civ. P. 66 and any additional equitable powers that the United States requests.

Unless otherwise ordered by the Court,<sup>96</sup> the proposed order shall provide:

1. The Receiver shall have all powers, authorities, rights and privileges heretofore possessed by the owners, members, shareholders, officers, directors, managers and general and limited partners of IAS under applicable state and federal law, by the governing charters, by-laws, articles and/or agreements in addition to all powers and authority of a receiver at equity, and all powers conferred upon a receiver by the provisions of 28 U.S.C. §§ 754, 959 and 1692, Fed. R. Civ. P. 66 and this Court.

2. The Receiver shall have the following general powers and duties:

- a) To use reasonable efforts to determine the nature, location and value of all property interests of the Receivership Defendants, including, but not limited to, monies, accounts, trusts, funds, securities, credits, stocks, bonds, effects, goods, chattels, intangible property, real property, lands, premises, leases, claims, rights

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<sup>96</sup> The parties may move for modification of these terms.

and other assets, together with all rents, profits, dividends, interest or other income attributable thereto, of whatever kind, which the Receivership Defendants own, possess, have a beneficial interest in, or control directly or indirectly (“Receivership Property”);

- b) To take custody, control and possession of all Receivership Property and records relevant thereto from the Receivership Defendants; to sue for and collect, recover, receive and take into possession from third parties all Receivership Property and records relevant thereto;
- c) To manage, control, operate and maintain the Receivership Property and hold in his/her possession, custody and control all Receivership Property, pending further Order of this Court;
- d) To use Receivership Property for the benefit of the Receivership, making payments and disbursements and incurring expenses as may be necessary or advisable in the ordinary course of business in discharging his/her duties as Receiver;
- e) To take any action which, prior to the entry of this Order, could have been taken by the officers, directors, partners, managers, members, shareholders, trustees and agents of the Receivership Defendants;
- f) To engage and employ persons in his/her discretion to assist him in carrying out his/her duties and responsibilities hereunder, including, but not limited to, accountants, attorneys, or forensic experts;

- g) To take such action as necessary and appropriate for the preservation of Receivership Property or to prevent the dissipation or concealment of Receivership Property;
- h) The Receiver is authorized to issue subpoenas for documents and testimony consistent with the Federal Rules of Civil Procedure;
- i) To bring such legal actions based on law or equity in any state, federal, or foreign court as the Receiver deems necessary or appropriate in discharging his/her duties as Receiver;
- j) To pursue, resist and defend all suits, actions, claims and demands which may now be pending or which may be brought by or asserted against the Receivership Estates; and,
- k) To take such other action as may be approved by this Court.

3. The Receivership Defendants are directed to preserve and turn over to the Receiver forthwith all paper and electronic information of, and/or relating to, the Receivership Property; such information shall include but not be limited to books, records, documents, accounts and all other instruments and papers.

4. The Receivership Defendants and all persons receiving notice of this Order by personal service, facsimile or otherwise, are hereby restrained and enjoined from directly or indirectly taking any action or causing any action to be taken, without the express written agreement of the Receiver which would interfere with or prevent the Receiver from performing his/her duties.

5. The Receivership Defendants shall cooperate with and assist the Receiver in the performance of his/her duties.

6. The Receiver shall promptly notify the Court and counsel for the United States of any failure or apparent failure of any person or entity to comply in any way with the terms of this Order.

7. Until further Order of this Court, the Receiver shall not be required to post bond or give an undertaking of any type in connection with his/her fiduciary obligations in this matter.

8. The Receiver and his/her agents, acting within the scope of such agency (“Retained Personnel”) are entitled to rely on all outstanding rules of law and Orders of this Court and shall not be liable to anyone for their own good faith compliance with any order, rule, law, judgment, or decree. In no event shall the Receiver or Retained Personnel be liable to anyone for their good faith compliance with their duties and responsibilities as Receiver or Retained Personnel nor shall the Receiver or Retained Personnel be liable to anyone for actions taken or omitted by them except upon a finding by this Court that they acted or failed to act as a result of malfeasance, bad faith, gross negligence, or in reckless disregard of their duties.

9. This Court shall retain jurisdiction over any action filed against the Receiver or Retained Personnel based upon acts or omissions committed in their representative capacities.

10. Within 60 days from the entry of the order appointing the Receiver, the Receiver shall file and serve an accounting of the Receivership Estate, reflecting (to the best of the Receiver’s knowledge) the existence, value, and location of all Receivership Property, and of the extent of liabilities, both those claimed to exist by others and those the Receiver believes to be legal obligations of the Receivership Estates. The Receiver shall also detail his/her efforts in

locating Receivership Property and what, if any, additional efforts need to be undertaken to provide a full accounting of each Receivership Estate to this Court.

11. The Receiver's fees shall be paid by the Receivership Defendants or from the Receivership Estates upon approval of the Court, with prior notice and opportunity for the United States to respond to any fee application.

12. The Receiver shall distribute the estate to:

- a. First Priority: The Internal Revenue Service, up to \$14,207,517. This payment shall be paid in full before any distributions to the Second Priority claims.
- b. Second Priority: The taxpayers who file claims with the Receiver with sufficient evidence of:
  - i. Their investment and all amounts received by payment or credit from Defendants including rental payments, bonus payments, salaries, distributions, and commissions and overrides or similar payments due to multilevel marketing; and
  - ii. The resolution of all the taxpayer's issues with the Internal Revenue Service.

Payments to claimants shall be made on a pro rata basis of the amount paid by the claimant to Defendants less all amounts received by the claimant from Defendants.

### III. Order

IT IS HEREBY ORDERED that the United States' second motion<sup>97</sup> to freeze the assets of Defendants RaPower-3, LLC, Neldon Johnson, International Automated Systems, Inc. and R. Gregory Shepard and to appoint a receiver is GRANTED and IT IS HEREBY ORDERED THAT:

1. This Court hereby takes exclusive jurisdiction and possession of the assets, of whatever kind and wherever situated, of the following Defendants: RaPower-3, LLC, Neldon Johnson, International Automated Systems, Inc. and R. Gregory Shepard (collectively, the "Receivership Defendants").

2. The United States shall provide within 30 days, the names of three possible receivers, with information regarding their qualifications, along with a proposed order of the specific powers and responsibilities that the Court should grant to the receiver in this case.

3. Except as otherwise provided herein, all assets of the Receivership Defendants are frozen until further order of this Court ("Receivership Property"). Accordingly, all persons and entities with direct or indirect control over any Receivership Property, other than the Receiver, are hereby restrained and enjoined from directly or indirectly transferring, setting off, receiving, changing, selling, pledging, assigning, liquidating, or otherwise disposing of or withdrawing such Receivership Property. This freeze shall include, but not be limited to Receivership Property that is on deposit with financial institutions such as banks, brokerage firms and mutual funds, shares of stock, and any patents or other intangible property.

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<sup>97</sup> ECF Doc. No. 414, filed June 22, 2018.



4. The Receivership Defendants, their agents, servants, employees, attorneys, and those persons in active concert or participation with them who receive actual notice of this Order by personal service, facsimile service, or otherwise, and each of them, shall hold and retain within their control, and otherwise prevent any withdrawal, transfer, pledge, encumbrance, assignment, dissipation, concealment, or other disposal of any assets, funds, or other properties (including money, real or personal property, securities, choses in action or property of any kind whatsoever) of the Receivership Defendants. This applies to assets held by Receivership Defendants or under their control, at any time after inception of this action, whether such assets were or are held in the name of any Receivership Defendant or for their direct or indirect beneficial interest wherever situated. The Receivership Defendants shall direct each of the financial or brokerage institutions, debtors, and bailees, or any other person or entity holding such assets, funds, or other properties of any Receivership Defendant to hold or retain within their control and prohibit the withdrawal, removal, transfer, or other disposal of any such assets, funds, or other properties.

5. The trustees, directors, officers, managers, employees, investment advisors, accountants, attorneys and other agents of the Receivership Defendants are restrained except as they may act in the ordinary course of business and shall not exercise their powers or take action inconsistent with this order. They are notified that upon appointment of the Receiver they shall likely be dismissed. and have no authority with respect to the Receivership Defendants' operations or assets, except to the extent as may hereafter be expressly granted by the Receiver.

6. The Receivership Defendants are directed to preserve all paper and electronic information of, and/or relating to, the Receivership Property.

The assets of Receivership Defendants Neldon Johnson and R. Gregory Shepard shall be frozen but each Defendant shall be allowed to withdraw on a monthly basis, monies for basic living expenses based on the IRS national standards. Defendants must account for these funds on or before the 15<sup>th</sup> of each month following the expenditure in the form required by the Receiver.

The sums which may be withdrawn are:

<b>IRS National Standards</b>	<b>Neldon Johnson</b>	<b>R. Gregory Shepard</b>
Housing & Utilities (Based on location)	\$1,347.00	\$1,806.00
Food, Clothing & Other Expenses	\$1,202.00	\$1,202.00
Out of pocket health costs	\$114.00	\$114.00
Transportation (National Standard)	\$497.00	\$497.00
<b>Monthly Total</b>	<b>\$3,160.00</b>	<b>\$3,619.00</b>

7. To the extent that any Receivership Defendant requests the use of Receivership Property, such application shall be made to the Court. After the appointment of a Receiver, requests for the use of funds shall be made to the Receiver and any party may dispute the Receiver’s decision by filing a motion with this Court.

8. The appointment of a Receiver shall not, without further order, deprive any Defendant of the right to appeal orders in this case or otherwise defend this action through counsel (paid from sources other than Receivership Property) of Defendants’ own choice.

Signed August 22, 2018.

BY THE COURT

David Nuffer  
United States District Judge